358.

SUPREME COURT OF THE UNITED STATES.

No. 43.

DANIEL F. STROTHER, PLAINTIFF IN ERROR,

VERSUS

JOHN B. C. LUCAS.

IN ERROR TO THE DISTRICT COURT U. S. FOR THE DISTRICT OF MISSOURI.

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[*Writ of Error.*]

UNITED STATES OF AMERICA, sct.—*The President of the United States of America to the judge of the court of the United States for the Missouri district, greeting:*

That, because in the record and proceedings, and also in rendering a judgment in a suit before him between Daniel F. Strother, demandant, and John B. C. Lucas, defendant, manifest error hath intervened, to the great damage of the said demandant, as in their complaint hath been stated, and as it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf, you are hereby commanded, that if a judgment thereof be given, then, under your seal, you distinctly and openly send the record and proceedings in the suit aforesaid, with all things concerning them, and this writ, so that you have the same before the chief justice and the associate justices of the Supreme Court of the United States, on the second Monday of January next, at the city of Washington, the present seat of the National Government, that the record and proceedings aforesaid being inspected, they may cause to be done thereupon what of right ought to be done.

Witness the honorable John Marshall, chief justice of the said Supreme Court, at Washington aforesaid, the thirtieth day of September, in the year of our Lord one thousand eight hundred and thirty, and in the fifty-fifth year of the independence of the United States.

Attest: R. A. EWING, [L. S.]

Clerk pro tem. of the Missouri district.

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[*Citation and service.*]

DISTRICT OF MISSOURI.—*The President of the United States of America to the Marshal of the said district, greeting:*

Whereas, in a certain action of trespass and ejectment brought by Daniel F. Strother against John B. C. Lucas, in the court of the United States for the Missouri district, held in the city of Jefferson, judgment by the same court at the last September term thereof was rendered against the said plaintiff, Daniel F. Strother; and whereas the said Daniel F. Strother has sued out his writ of error, directed to the said court of the United States, commanding the same court a transcript of the record of the judgment aforesaid, and all things touching the same, together with the said writ, to certify and send to the Supreme Court of the United States, to be held at the city of Washington, in the District of Columbia, on the second Monday in January next, that the judges of the said Supreme Court, inspecting the record of the judgment aforesaid, may cause to be done therein, for the correcting of any errors apparent upon the said record, if any there be, what to them of right and law should seem meet to be done:

These are therefore to command you, the said marshal, forthwith to cite the said John B. C. Lucas to be and appear at the Supreme Court of the United States, before the judges thereof, to be held at the city of Washington, in the District of Columbia, on the second Monday in January next, then and there to hear the errors which may be assigned upon the said record, if he shall think fit, and further to do and receive what the same Supreme Court shall then and there consider in this behalf; and make you return of this citation thereupon, and how you have executed the same, to the clerk of the said district court, to the end that the same, with the return thereon by you made, may be sent certified with the transcript of the record aforesaid to the said Supreme Court of the United States.

Witness James H. Peck, judge of the district court of the Missouri district, this fifteenth day of October, in the year 1830.

JAMES H. PECK.

I acknowledge the service of the foregoing.

JOHN B. C. LUCAS.

Served the within citation on John B. C. Lucas, by reading it to him, this 18th day of October, 1830.

Augustus Jones, Marshal,
By ELLIOTT LEE, *Deputy Marshal.*

[*Appeal bond.*]

Know all men by these presents, that we, Daniel F. Strother, Richard W. Lane, George F. Strother, and Luke E. Lawless, are held and firmly bound unto John B. C. Lucas in the full and just sum of one hundred dollars, current money of the United States, to be paid to the said John B. C. Lucas; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this fifteenth day of October, in the year one thousand eight hundred and thirty.

Whereas, lately at a district court of the United States for the Missouri district, in a suit depending in said district court, wherein Daniel F. Strother was plaintiff, and John B. C. Lucas was defendant, judgment was rendered against the said Daniel F. Strother; and the said Daniel F. Strother having obtained a writ of error, and filed a copy thereof in the clerk's office of the said district court, to reverse the judgment in the aforesaid suit, and a citation to the said defendant, citing and admonishing him to be and appear at a Supreme Court to be holden at Washington the first Monday of February next:

Now the condition of the above obligation is such, that if the said Daniel F. Strother shall prosecute his said writ to effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be void, else to remain in full force and virtue.

[SEAL.]
RICHARD W. LANE. [SEAL.]
GEORGE F. STROTHER. [SEAL.]
L. E. LAWLESS. [SEAL.]

Sealed in presence of

Taken before me, this 15th October, 1830.

JAMES H. PECK.

(Copy of the bond.) Attested by me.

PECK.

[*Assignment of Errors.*]

DANIEL F. STROTHER, *vs.* JOHN B. C. LUCAS. } *Supreme Court of the United States.*

And now, at this day, comes the said Daniel F. Strother, by Luke Edward Lawless, his attorney, and says, that, in the record and proceedings aforesaid, there is manifest error in this, to wit, that by the record aforesaid it appears that the judgment in form aforesaid was given for the said John B. C. Lucas, when, by the law of the land of these United States and of the State of Missouri, the said judgment ought to have been given for the said Daniel F. Strother, against him, the said John B. C. Lucas.

There is error also in this, that the instruction given by the judge of the said district court to the jury, at the instance of said defendant, is contrary to law, as same appears by the record aforesaid.

And said Daniel F. Strother prays that the judgment aforesaid for the errors aforesaid, and others being in the record and proceedings aforesaid, may be reversed, annulled, and entirely held as void, and that he, the said Daniel F. Strother, may be restored to all things which he hath lost by reason of the judgment aforesaid.

L. E. LAWLESS,
Attorney for plaintiff in error.

[*Declaration.*]

DANIEL F. STROTHER, *vs* JOHN B. C. LUCAS. }

Be it remembered, that heretofore, to wit, on the 28th day of January, in the year of our Lord one thousand eight hundred and twenty-nine, the said plaintiff, by his attorney, filed with the clerk of the United States' court for

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the Missouri district his declaration against the said defendant, in the words and figures following, to wit:

In the district court of the United States for the district of Missouri, March term, 1829.

STATE AND DISTRICT OF MISSOURI, *county of St. Louis, ss.*

Daniel F. Strother, who is a citizen of, and residing in, the State of Kentucky, by his attorney, complains of John B. C. Lucas, who is a citizen of, and residing in, the State of Missouri, of a plea of trespass and ejectment. For that the said plaintiff heretofore, to wit, on the fifteenth day of September, in the year of our Lord one thousand eight hundred and twenty-eight, was, and still is, legally entitled to the possession of all that certain tract or piece of land, situate, lying, and being in the county of St. Louis, State of Missouri aforesaid, consisting of two arpents, French measure, in breadth from north to south, by forty arpents, French measure, in depth from east to west, making in the whole eighty superficial arpents, which said two arpents by forty were amongst other forty arpent field lots granted, located, and surveyed by the authority of the King of Spain and government in Upper Louisiana, in the prairie immediately adjoining the town of St. Louis; and which said two arpents by forty are bounded on the north from east to west by a field lot of one by forty arpents originally granted to one Louis Bissonet, alias Bissee, and on the south from east to west by a forty arpent field lot originally granted to one John Baptiste Begente; and to all the buildings thereon, to wit, to fifty dwelling-houses, fifty barns, fifty stables, fifty out-houses, fifty messuages, together with the appurtenances to said buildings, houses, and land belonging; and he the said plaintiff being so legally entitled to the possession, and being possessed of said land, together with all said buildings, messuages, houses, and appurtenances, he, the said defendant, afterwards, to wit, on the day and year aforesaid, at the county aforesaid, with force and arms entered into the said land and premises, with the appurtenances, to which the said plaintiff was so legally entitled, and of which he was possessed, and ejected, expelled, and removed him, the said plaintiff, out of same, and kept and continued him so ejected and removed for a long space of time, to wit, from thence hitherto; and during that time took and had, to the use of him, the said defendant, all the issues and profits of the said land, buildings, messuages, houses, and appurtenances, being of the great yearly value of, to wit, the sum of five thousand dollars, and other wrongs did to the said plaintiff then and there, to the great damage of said plaintiff; and said plaintiff avers that said land, buildings, and messuages are of the value of five hundred dollars and upwards; and said plaintiff saith that he is injured and hath sustained damage to the value of five thousand dollars, and therefore brings suit, &c.

L. E. LAWLESS,
G. F. STROTHER,
Att'ys for pl'ff.

Attached to which declaration is the following bond for costs, to wit:

DANIEL F. STROTHER, *vs.* JOHN B. C. LUCAS } *Trespass and ejectment.*

District court United States for Missouri, March term, 1829.

We, the undersigned, by these presents promise and bind ourselves, our executors and administrators, to pay to said defendant, John B. C. Lucas,

and to be accountable for all such costs as shall be adjudged against the said plaintiff, Daniel F. Strother, in the above action of ejectment. In testimony whereof, we have hereto put our hands and seals, this twenty-first day of January, 1829, at St. Louis, State of Missouri.

GEORGE F. STROTHER. [SEAL.]
L. E. LAWLESS. [SEAL.]

Whereupon the clerk of our said court issued a writ of summons against said defendant, in the words and figures following, to wit:

[*Writ.*]

MISSOURI DISTRICT, *sct.*—*The President of the United States of America to the Marshal of said district, greeting:*

You are hereby commanded to summon John B. C. Lucas, (who is a citizen of the State of Missouri,) that he be and appear before the court of the United States for the Missouri district, at the next term thereof, to be held at the city of Jefferson on the first Monday of March next, then and there to answer unto Daniel F. Strother (who is a citizen of the State of Kentucky) of a plea of trespass and ejectment, to the damage of the said plaintiff, of five thousand dollars. Hereof fail not, and have you then there this writ.

Witness, the hon. James H. Peck, Esq., Judge of the United States for the Missouri district, the twenty-eighth day of January, A. D. 1829.

Issued at office in the city of Jefferson, under the seal of said court, the day and year last aforesaid.

ISAAC BARTON, *Clerk.* [L. S.]

And the marshal to whom said writ was directed, made the following return thereon, to wit:

Executed this writ on John B. C. Lucas February 14, 1829, in the city of St. Louis, by reading the same to him.

JOHN SIMONDS, JR., *Marshal.*

[*Plea of not guilty.*]

And afterwards, to wit, at the May term, A. D. 1829, of our said court, the said defendant appeared, and filed his plea to said action, in the words and figures following, to wit:

And the said John, by Geyer, his attorney, comes and defends the force and injury, when, &c., and says that he is not guilty of the trespass and ejectment in the declaration charged in manner and form as the plaintiff hath above thereof complained against him, and of this he puts himself upon the country, &c.

GEYER, *for defendant.*

Which is noticed on the record thus: "Plea filed."

And afterwards, to wit, at the September term, A. D. 1829, of our said court, this cause was "continued." And afterwards, to wit, at the September term, A. D. 1830, of our said court, the following judgment was rendered in this case, to wit:

[*Judgment.*] 301

Now, at this day, come the parties aforesaid, by their respective attorneys aforesaid; and thereupon also come a jury, to wit, William Skinner, John R. Duncan, James W. Hamilton, John C. Potter, James R. Pullin, Robert H. James, William R. Grimsley, Beverly A. Ramsay, Enoch Murray, William Herndon, Jonathan Hunt, and William Lampkin, twelve good and lawful men, who being duly elected, tried, and sworn, well and truly to try the issue within joined, between the parties aforesaid, upon their oaths aforesaid, do say that the said defendant is not guilty of the trespass and ejectment in the declaration mentioned in manner and form as the said plaintiff hath above thereof complained against him. Therefore, it is considered by the court that the said Daniel F. Strother take nothing by his said writ, and that the said John B. C. Lucas go thereof without day; and it is further considered that the said John B. C. Lucas recover against the said Daniel F. Strother his costs and charges by him about his defence in this behalf expended, and that he have thereof execution.

And afterwards, at the same term of our said court, bill of exceptions filed by said defendant, in the words and figures following, to wit:

[*Bill of exceptions.*]

Be it remembered, that on the trial of the above issue the plaintiff gave in evidence, in due form of law, the following documents, to wit: first, a certain document, being a certified copy from the record in the original Spanish language, on file amongst the archives in the proper office, and purporting to be an inventory of the property, real and personal, of Louis Chancellier, deceased; and also a translation into the English language of said inventory, which translation, by consent of the said parties, is here set out in the words and figures following:

[A. *Inventory of the estate of Louis Chancellier.*]

In the town of St. Louis, of Illinois, the eighth day of the month of June, of the year one thousand seven hundred and eighty-five, I, Don Francisco Cruzat, commandant and lieutenant governor of this western part and district of the Illinois, (for want of a notary,) on occasion of the decease intestate of Don Louis Chancellier, late lieutenant of one of the companies of militia of this town, and husband of Dona Louisa Decham, and of his having left at his death a son, an infant, have come at the present hour, about nine in the forenoon, to the dwelling of the said deceased, accompanied by the witnesses of assistance, Mariano Yzaguirre and Joseph Bermeo, in order to make an appraised inventory of all the property, moveable and immoveable, which are ascertained to belong to the said deceased and to his wife Dona Louisa Decham; for which purpose have been named for appraisers Messrs. Jaspard Roubieu, Joseph Robidou, and Joseph Tegarhe, all neighbors, and residents in the said town, who being present have said, on their oath, that they would make, faithfully and legally, according to their consciences, the appraisement of each article presented to them, in current money of this country, all which was executed (in presence of the said Dona Louisa Decham, as guardian of her son, and of Don Carlos Tayan, as under guardian of said minor) in the form following:

	Livres.	sous.
First, a negro named Fidel, of the age of thirty years, at one thousand livres - - - - - - -	1,000	

Livres. sous.

A house of posts in the ground, covered with shingles, and planked above and below, sixteen feet square, and a lot of one hundred and fifty feet in breadth by one hundred and twenty deep, enclosed with stakes, valued at three hundred livres - - 300
Four horses, valued at six hundred livres - - - - 600
Two mares and one colt, valued at two hundred and fifty livres - 250
Another mare and her colt a month old, valued at eighty livres - 80
A pair of oxen six years old, valued at three hundred livres - 300
A cow five years old, with her calf of three months, and a young bull of three years, valued altogether at two hundred and twenty livres - - - - - - - - 220
Two sows two years old, with six little pigs of two months, valued altogether at one hundred and twenty livres - - - 120
Twelve hens and one cock, valued together at twenty-five livres - 25
A barn of posts in the ground, all of cedar, and covered with straw, forty-five feet in length by twenty in breadth, valued at eight hundred livres - - - - - - 800
One arpent and a half of land sowed in wheat, in the prairie next to this town, bounded on the one side by the land of Mr. Beguite, on the other by Mr. Bichou, valued the whole at six hundred livres - - - - - - - - - 600
Another half arpent of land in the grand prairie, valued at fifteen livres - - - - - - - - - 15
A plough, the whole complete for sowing wheat, valued at one hundred and fifty livres - - - - - - 150
A horse cart, without wheels, valued at thirty livres - - 30
Another small one, with wheels, valued at fifty livres - - 50
Another small ox cart, without wheels, valued at ten livres - 10
A caleche, with its wheels, painted green and red, valued at one hundred and fifty livres - - - - 150
A tumbre, without wheels, to carry corn, valued at thirty livres - 30
One cupboard of walnut, with its lock and key, valued at two hundred livres - - - - - - - 200
Another small cupboard of walnut, with its lock and key, to keep plate and other ware, valued at fifty livres - - - 50
Two tubs, and one small tub with iron hoops, valued at twelve livres 12
Three iron pots of small size, with their covers iron, valued at twenty livres - - - - - - - - 20
One large frying pan, valued at ten livres - - - - 10
Three middle sized and two small stew pans of pewter, valued together at twenty-five livres - - - - - 25
One tin water pitcher and two old copper candlesticks, valued together at ten livres - - - - - - 10
One large and two middle sized basins, six plates, and eight spoons, of pewter, valued together at thirty-five livres - - - 35
One iron spoon, one pair of andirons, one iron shovel, another do. valued together at twenty-five livres - - - - 25
One iron pot, with its cover of iron, valued at twenty-five livres - 25
Four old chairs, with bottoms of thongs of hide, valued at eight livres - - - - - - - - - 8
One large iron pot, valued at twenty livres - - - 20

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	Livres.	sous.
Three large axes and small do. with wooden helves, valued at twenty livres	20	
Two other axes, the one large the other small, valued at ten livres	10	
Seven sickles, good and bad, valued at twenty-five livres	25	
One demijohn of glass and jar of clay, valued at twenty livres	20	
One iron pan, to make pies, with its iron cover, valued at five livres	5	
Five iron beaver traps, valued at twenty-five livres	25	
One old cart-horse harness, valued at twenty livres	20	
One large iron chain, valued at forty livres	40	
Four bars, two chisels, one pincers, one bolt, all of iron, valued together at thirty-five livres	35	
One brass mould for making spoons, one wooden cup, with sundry small iron (old), valued together at ten livres	10	
One other large wooden cup, full of sundry old irons, valued at ten livres together	10	
One old musket, valued at two livres ten sous	2	10
Two drawing knives and two carpenters' chisels, valued together at twenty livres	20	
Seven iron hoops, and pair large iron scissors, valued together at thirty livres	30	
Two old scythes, one hammer, and one iron for picking the sickles, valued the whole ten livres	10	
One large iron vice of a blacksmith, valued at thirty livres	30	
One saw, with its frame of wood, valued at five livres	5	
One harness complete for two horses for cart, valued at forty livres	40	
Three large cords of hide, valued at fifteen livres	15	
Two leaden weights, of fifty pounds each, valued at twenty-five livres	25	
One trough of walnut, to make bread, valued at ten livres	10	
One gun, with horn and shot pouch, valued at fifteen livres	15	
One large dyeing tub with iron hoop, and another small, valued at ten livres	10	
	5,602	10

And having proceeded from the hour of nine in the morning to the hour of thirty minutes past eleven, the continuation of the present inventory is postponed to four o'clock in the afternoon of the same day, and have signed with me, the said commandant and lieutenant governor, the aforesaid witnesses of assistance, appraisers, and guardians, Louisa Chancellier, Charle Tayan, Gaspard Roubieu, Jh. Robidou, mark of × Joseph Tigore, mark of × James Labe, Joseph Bermeo, Mariano Yzaguirre,

FRANCO. CRUZAT.

At the hour of four of the same day, the present inventory is continued in form following:

First, one large bolting cloth, and a large floor to receive the flour, valued at three hundred livres	300	
One stone of a horse mill, with all the other instruments necessary to make it run, valued together at five hundred livres	500	

	Livres.	sous.
One trough of walnut to hold the flour, three hammers of iron to pick the stone, one bar and one mace of iron, valued together at twenty-five livres - - - - - - -		25
One small trunk, lined with seal skin, with its lock and key, in which are found the effects following:		
Four razors and a stone in the said trunk, valued in the whole at fifteen livres - - - - - - - -		15
An account by one Lessire, owes the deceased fifty pounds of flour, marked and numbered 1; an order of one Damur in favor of the deceased, for ten pounds peltry, which in money make twenty livres, marked and numbered 2 - - - - -		20
A receipt of John Baptiste Tardif, by which there appears due to the deceased ten livres in money, marked and numbered 3 -		10
A receipt of Joseph Larin, alias Larochelle, by which he owes the deceased one hundred livres in money, marked and numbered 4		100
An acknowledgment of Lorenzo Derocke, by which it appears there is due one thousand dollars, for the sale of a house, which obligation or writing is deposited in the archives of the government, marked and numbered 5 - - -	5,000	
One pair of scales with its beam of iron, valued at twenty-five livres		25
	11,597	10

And after having proceeded from four in the afternoon to half past six of the same day, and not having found any more effects to be inventoried belonging to said deceased, with the exception of the wearing apparel, which in as much as the said Dona Louisa Decham, wife of said deceased, has ceded to her infant son, all of them that come to her from her marriage are not included or valued herein, the present inventory is concluded, being contained in eight folios, including this one; having calculated its amount at the sum of eleven thousand five hundred and ninety-seven livres ten sous, leaving in charge of the whole of said property Dona Louisa Decham and Don Carlos Tayan, as guardians of the said succession, until provision shall be made as to right shall correspond. In testimony of which, have signed with me, the said commandant and lieutenant governor, and the said witnesses of assistance and appraisers, on the same day, month, and year, as above, Charle Tayan, Marie Louis Chancellir, Gaspard Raubieu, mark of × Joseph Ragoche; mark of × Jantage Labe, Mariano Yzaguirre, Joseph Bermeo, Joseph Robedau,

FRANCO. CRUZAT.

[B. *Public sale of Louis Chancellier's property.*]

And plaintiff further gave in evidence a certain document, being a certified copy from the record in the original Spanish language, on file as aforesaid, and purporting to be a public sale of the property, real and personal, of the said Louis Chancellier, after his decease, and also a translation into the English language of said document, which translation, marked B, by consent of said parties, is here set out, in the words and figures following, to wit:

303.

Senor commandant and lieutenant governor:

Dona Louisa Dechamp, widow of the deceased, Don Louis Chancellier, late lieutenant of one of the companies of militia of this town, and Don Carlos Tayan, surrogate guardian of the minor of the succession, with the most due respect, before your honor, expose and say, that all the property, moveable and immoveable, belonging to said succession, being exposed to various injuries by the accidents of the times, of which property your worship thought proper, on the eighth day of this present year one thousand seven hundred and eighty five, to have made a general inventory and appraisement, and to order that said property should remain in our possession for the preservation of the same, until it should be provided and determined as to right should appertain in the premises; wherefore, we supplicate your honor, in order to avoid the losses which the succession might experience from the result of said injuries in the greater part of the goods of which the said succession consists, and of the impossibility in which we are of being able to preserve them in the same state in which they were delivered to us, that your honor will think proper to provide and order that a public sale shall be made of all of them, giving the purchasers for term of payment until the whole of the month of May of the year one thousand seven hundred and eighty seven, to the end that with this motive there may result the most beneficial product to said succession, and at same time facilitate to said purchasers the mode by which they can gain the amount that each of them shall owe to said succession: a grace which we hope to deserve from your equitable justice. St. Louis, of Illinois, eleventh of June, one thousand seven hundred and eighty-five.

MARIE LOUISE CHANCELLIER.
CHARLE TAYAN.

Seeing what is stated in the present memorial, let there be made a public sale of all the goods, moveable and immoveable, that are inventoried, belonging to the succession of the deceased, Don Louis Chancellier, on the same terms as the petitioners pray, and let it be known to them for its exact execution. St. Louis, of Illinois, eleventh of June, one thousand seven hundred and eighty-five.

FRANCO. CRUZAT.

I, Mariano Izaguirre, first corporal of the troops in garrison in this post of Illinois, (for want of an alguacil,) have signified the decree aforesaid to Dona Marie Louise Dechamp and to Don Carlos Tayan, speaking to them in person. St. Louis, of Illinois, eleventh of June, one thousand seven hundred and eighty-five.

MARIANO IZAGUIRRE.

In the town of St. Louis, of Illinois, the twelfth day of the month of June, of the year one thousand seven hundred and eighty-five, I, Don Francisco Cruzat, commandant and lieutenant governor of the western part of the Illinois, (for want of a notary,) attending to the application made by Dona Louisa Dechamp, widow of Don Louis Chancellier, deceased, and of Don Carlos Tayan, surrogate tutor of the minor left by the said deceased, by which they pray to have a public sale of all the moveables and immoveables belonging to the said succession, I have proceeded, at the hour of about ten in the morning, to the dwelling of the said Dona Louisa Decham, in whose

possession are all the said goods, and having notified the public and the people assembled in sufficient number, that the sales would be payable in all the month of May, in the year one thousand seven hundred and eighty-seven, in current money of the country, or in peltry at the rate of forty sous the pound, each purchaser giving good and sufficient security, domiciled in this town; all which was proceeded to be executed in the presence of the witnesses of assistance, Mariano Izaguirre and Joseph Bermeo, and the guardians of the succession, in the form following:

		Livres. sous.
Mark × *of Hyacinth St. Cyr; Augte. Chouteau.*	First, a negro called Fidel, of the age of thirty years, adjudged at two thousand one hundred livres, to St. Cir, his security Mr. Chouteau - -	2,100
Dubreuil.	One pair of oxen, six years old, adjudged at four hundred livres, to M. Dubreuil, paid down - -	400
Marie Louisa Chancellier.	One cow, with her calf three months old, adjudged at three hundred livres, to Dona Louisa Decham	300
Marie Louis Chancellier.	One sow two years old, with ten small pigs of two months old, adjudged one hundred livres, to Dona Louisa Decham - - - -	100
Mark × *of M Bruxeir.*	Another sow, with three small pigs of two months, adjudged at forty-six livres, to Mr. Bruxeir, his	
Mark × *of M. Fastan.*	security Mr. Fastan - - - -	46
Marie Louise Chancellier.	Twelve hens and one cock, adjudged at thirty-five livres, to Dona Louisa Decham - - -	35
Marie Louise Chancellier.	One barn of posts in the ground, all of cedar, covered in straw, of forty-five feet in depth, by twenty in breadth, adjudged at eight hundred and fifty livres, to Dona Louisa Decham - - - -	850
Marie Louise Chancellier.	One arpent and a half of land in the prairie next to this town, which is bounded on the one side by the land of Mr. Becquet, and on the other by Mr. Bisu, adjudged at one hundred and fifty-five livres, to Dona Louisa Decham - - - -	155
Marie Louise Chancellier.	Another half arpent of land in the grand prairie, adjudged at eight livres, to Dona Louisa Decham	8
Mark × *of M Rigoche; Ch. Tayan.*	A plough complete for sowing, adjudged at one hundred and fifty-one livres, to Don Carlos Tayan, his surety Mr Rigoche - - - -	155
	A horse cart, without wheels, adjudged at ten livres, to Dona Louisa Decham - - - -	10
	Another small do. with its wheels, adjudged at thirty-five livres, to Dona Louisa Decham - -	35
×	Another small ox cart, without wheels, adjudged at	
×	ten livres, to Mr. Bruxeir, his security Mr. Guiter, sen. - - - - -	10
Marie Louise Chancellier.	One caleche, with its wheels, painted green and red, adjudged at one hundred and thirteen livres, to Dona Louisa Dechamp - - -	113
		4,313

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And after having proceeded from nine in the morning to twelve, the present sale is adjourned to four o'clock of the afternoon of same day, and have signed with me, the said commandant and lieutenant governor, the above named witnesses of assistance and guardians, Marie Louis Chancellier, Charles Tayan, Mariano Izaguirre, Joseph Bermeo, FRANCO. CRUZAT.

At four in the afternoon of same day, the present sale is continued, in the form following:

		Livres.	sous.
	First, a mare of eighteen months, adjudged at one hundred and thirty-five livres, to Glod Rid, his surety Rid, sen. - - - -	135	
	Another mare, of twelve years, adjudged at one hundred livres, to Mr. Mareau, his surety Mr. Rigoche - - - - - -	100	
Marie Louis Chancellier.	Another mare, of three years, adjudged at one hundred and fifty livres, to Dona Louisa Dechamp -	150	
Dubruel.	A tumbril, without wheels, to carry corn, adjudged at twenty livres ten sous, to Mr. Dubruel, his surety Mr. Dorrocher - - - -	20	10
Marie Louise Chancellier.	One large cupboard of walnut, with its lock and key, adjudged at one hundred and fifty livres, to Dona Louisa Dechamp - - - -	150	
Ch. Tayan.	One mare, adjudged at one hundred and forty-five livres, to Don Carlos Tayan - - -	145	
Marie Louise Chancellier.	Another do. adjudged at one hundred and fifty-one livres, to Dona Louisa Dechamp - -	151	
Marie Louise Chancellier.	One horse, adjudged at one hundred and sixty-one livres, to Dona Louisa Dechamp - -	161	
Marie Louisa Chancellier.	Another horse, adjudged at three hundred and twenty-livres, to Dona Louisa Dechamp - -	320	
		5,645	10

And after having proceeded from four o'clock in the afternoon to half past six of the same day, the present sale is adjourned, to be continued on the following day, at nine o'clock in the forenoon, and have signed with me, the said commandant and lieutenant governor, the above named witnesses of assistance and guardians, Marie Louise Chancellier, Charles Tayan, Mariano Izaguirre, Joseph Bermeo, FRANCO. CRUZAT.

Act.—In conformity to the memorial presented by Dona Louisa Dechamp, widow of the deceased, Don Louis Chancellier, and Don Carlos Tayan, surrogate guardian of the minor of the succession, Don Louis Chancellier, legitimate son of the said deceased, and of the said Dona Louisa Dechamp, the present sale is concluded on four folios, comprehending this one, having calculated the sale of the aforesaid goods at the sum of five thousand six hundred and forty five livres and ten sous in money, and have signed with me, the said commandant and lieutenant governor, the above named

witnesses of assistance and guardians, in St. Louis, of Illinois, the fourteenth day of the month of June, of the year one thousand seven hundred eighty-five, Marie Louise Chancellier, Charles Tayan, Joseph Bermeo, Mariano Izaguirre,

FRANCO. CRUZAT.

Senor commandant and lieutenant governor:

Dona Louisa Dechamp, widow of the deceased, Don Louis Chancellier, and Don Carlos Tayan, surrogate guardian of the minor of the succession, with the most due respect, before your honor, expose and say, that, in consequence of having observed that the greater part of the articles of the property that are selling at public auction are not bid off, even at the price at which they have been valued, because of there being no persons that want to take or to buy them, in consequence of the scarcity which the country suffers, and this being greatly prejudicial to the best interest of the succession, therefore, we supplicate your honor, that you will think proper to order that the said sale be suspended, and that all the effects, moveables, and immoveables, that are inventoried as belonging to said succession, and which have not been sold, be delivered to me, the said Dona Louise Dechamp, at the same price at which they are appraised, on account of those that belong to me of the said succession, in respect of there being no other mode at this time of obtaining a greater benefit for the minor of the succession. Grace which we hope to deserve from the equitable justice of your honor. St. Louis, de Illinois, this fourteenth of June, of the year one thousand seven hundred and eighty-five.

MARIE LOUISE CHANCELLIER.
CHARLE TAYAN.

Seeing the statement in the present memorial, and in respect of having experienced in the sales which took place up to this day, of the effects, moveables and immoveables, belonging to the succession of the deceased, Don Louis Chancellier, that the greater part of the articles that have been sold did not bring even the price of the appraisement, with the exception of the negro named Fidel, and in respect of the widow agreeing to take, for her account of the part which comes to her of said succession, all those which have not been sold, let them be delivered to her, as it is solicited, she bringing this account to the general mass in its whole amount, in the partition that is to be made between her and her infant son, Don Louis Chancellier. Given in St. Louis, of Illinois, the fourteenth day of the month of June, of the year one thousand seven hundred and eighty-five.

FRANCO. CRUZAT.

[C. *Partition of said estate.*]

And plaintiff further gave in evidence a certified copy from the record in the original Spanish language, on file amongst the archives aforesaid, purporting to be a partition of property between the widow of said Louis Chancellier and her son Louis Chancellier, and also a translation into the English language of said partition, which translation, by consent of said parties, is here set out in the words and figures following:

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Senor lieutenant governor:

Dona Marie Louisa Dechamp, widow of the deceased, Don Louis Chancellier, formerly lieutenant of militia of this town of St. Louis, of Illinois, with due respect, in the best form that to right belongs before your honor, appears, and says, that desiring to liquidate the accounts of the succession of her son, Don Louis Chancellier, and to make a corresponding distribution to the end of satisfying the creditors, and that every thing remain in the greatest clearness, supplicates your honor that he will give the corresponding course to her petition, a favor which she hopes to receive from the great justice of your honor, and swears that she does not proceed in bad faith; and as in duty bound, &c.

MARIE LOUISA CHANCELLIER.

St. Louis, of Illinois, 9th June, 1786.

Seeing the foregoing petition, let the corresponding distribution be made of the property which the lieutenant of militia, Don Louis Chancellier, left at his decease; and let there be named for arbitrators and examiners of the accounts which are to be made of said succession Don Louis Dubreuil Don Gaspard Roubieu, and Don Eugenio neighbors, and residents of this town, and let it be known to them for its exact fulfilment. St. Louis, of Illinois, ninth of June, one thousand seven hundred and eighty-six.

CRUZAT.

I, Mariano Izaguirre, first corporal of the troops which garrison these posts of Illinois, (for want of a constable) (alguacil,) have notified the foregoing decree to Messrs. Don Louis Dubreuil, Don Gaspar Roubieu, and Don Eugenio , speaking with them in person. St. Louis, of Illinois, ninth of June, one thousand seven hundred and eighty-six.

MARIANO IZAGUIRRE.

In the town of St. Louis, of Illinois, the ninth day of the month of June, of the year one thousand seven hundred and eighty-six, in virtue of the petition presented by Dona Maria Louisa Dechamp, praying that a distribution be made, and that the accounts of the succession of her deceased husband, Don Louis Chancellier, be cleared up and liquidated in due form between her and her son, Don Louis Chancellier, in order to make a proper distribution of that property, and entire satisfaction to its creditors; in consequence thereof have appeared together before me, Don Francisco Cruzat, lieutenant colonel by brevet of infantry and lieutenant governor of these establishments of Illinois, Don Louis Dubreuil, Don Eugenio Alvarez, and Don Gaspar Roubieu, traders, residents in this town aforesaid of St. Louis, arbitrators, examiners of this account, and as witnesses of assistance officially named, who, after having examined every thing, have commenced the partition of the property in the form following:

	Livres. sous.
First, the appraised inventory of this succession amounts to eleven thousand five hundred and ninety-seven livres and ten sous, money of France, - - - -	11,597 10
For the profit on the sales by auction, which made, and resulted in favor of the succession by the difference of the appraisement, one thousand three hundred and eighty-five livres ten sous, of same money, - - - -	1,385 10

			Livres. sous.
For amount coming to the succession from the brother of the deceased, Josef Chancellier, two hundred and eighty-five livres, of the same money,			285
Total of the capital amount of this succession,			13,268

Deduction.

	Livres.	sous.	
For one receipt of the rev. father Francisco Bernardo, curate of this parish, for the sum of seven piasters for the funeral,	35		
For the expenses of justice,	147	10	
For debt due by the deceased to the succession of Francisco Guion,	86		
To pay the surgeon, Mr. Renal,	104		
To pay Mr. Derroche, as appears by his receipt,	95	10	
For an account of Mr. Ortis, due by the dec'd,	56		
Payment of a house of posts in the ground,	382		
Payment to the alguacil of this town,	15		
A proclamation published at the church door,	2	10	
An account presented by Mr. Cerre, due by deceased,	40		
An account of days' work, due by deceased to Francis Delorie,	90		
An account presented by Mr. Dubreuil, amounting to	335		
An account presented by Mr. Labadu,	193		
An account presented by Don Gasper Roubieu,	163		
An account presented by Don Carlos Tenguretti, as depositary of the succession of Joseph Chancellier, amounting to	1,762	12	6
An account presented by Don Carlos Tayan, of	30		
Another account presented by same as guardian of this succession for ten per cent. on amount of the property taken by him,	324	10	
Expenses of justice in settling the accounts,	120		
			3,933 12 6
Nett amount for partition,			9,334 7 6

The aforesaid Dona Maria Louisa Decham stands charged with the following property, according to the price agreed upon, as appears by the memorial which she presented under date of the fourteenth of Jnne, of the last year one thousand seven hundred and eighty-five, as in like manner with those which were adjudged to her at the public sale.

	Livres.
First, one cow with her calf, adjudged at three hundred livres,	300
One sow and ten small pigs, adjudged at one hundred livres,	100
Twelve hens and one cock, at price of thirty-five livres,	35
One barn, of price of eight hundred and fifty livres,	850
One arpent and a half of land, sold for one hundred and fifty-five livres,	155
Another half arpent of land, for price of eight livres,	8

300.

Livres. sous.

One horse cart, at price of ten livres,	10
Another small cart, for price of thirty-five livres,	35
A caleche, for price of one hundred and thirteen livres,	113
One mare, for one hundred and fifty livres,	150
One large cupboard, for price of one hundred and fifty livres,	150
Two horses and a mare, sold for price of six hundred and thirty-two livres,	632
One house of posts in the ground, sold for three hundred livres,	300
A small cupboard, for price of fifty livres,	50
Two large and one small tub, for price of twelve livres,	12
Three iron pots, for price of twenty livres,	20
One frying pan, for price of ten livres,	10
Three stew pans of pewter, for price of twenty-five livres,	25
One large and two middle size basins, six plates, and eight pewter spoons, at price of thirty-five livres,	35
One pewter pitcher and two candlesticks, for price of ten livres,	10
One iron spoon and pair of andirons and two iron shovels, for price of twenty-five livres,	25
One iron pot and its cover, for price of twenty-five livres,	25
Four chairs, for price of eight livres,	8
One large iron pot, for price of twenty livres,	20
Three axes, large and small, for price of twenty livres,	20
Two axes, for price of ten livres,	10
Seven sickles, for price of twenty-five livres,	25
One demijohn of glass and one jar of clay, for price of twenty livres,	20
One iron fry pan, for price of five livres,	5
Two traps, for price of twenty-five livres,	25
One old horse harness, for price of twenty livres,	20
One iron chain, for price of forty livres,	40
Four gimlets, two chisels, one pincers, and one lock, for price of thirty-five livres,	35
One brass moulds for spoons, for price of ten livres,	10
One large wooden cup for irons, for price of ten livres,	10
Two drawing-knives with two handles, and two carpenters' chisels, for price of twenty livres,	20
Seven iron hoops and two large augers, for price of thirty livres,	30
Two scythes, one hammer, and iron to pick the sickles, for price of ten livres,	10
One large iron auger, for price of thirty livres,	30
One saw, for price of five livres,	5
One harness for two horses, complete, for price of forty livres,	40
Three large cords of hide, for price of fifteen livres,	15
Two leaden weights of fifty pounds each, for price of twenty-five livres,	25
One trough for bread, for price of ten livres,	10
One gun with its horn, for price of fifteen livres,	15
One large and one small dye tub, for price of ten livres,	10
The utensils of a mill, for price of eight hundred and twenty-five livres,	825

	Livres. sous.
Four razors, for price of fifteen livres, - - - -	15
One pair of scales of iron, for price of twenty-five livres, -	25
Total amount of property which the widow has received,	4,375 10

Act.—And after having well examined with all exactness this account, and the said Don Louis Chancellier having died intestate, not being able to make a final judgment for the conclusion of the partition, let it remain in this state in order to transmit the acts together with the marriage contract to the tribunal of the governor general for his opinion and final decree; the which have signed with me, lieutenant governor, the witnesses of assistance; and let it be made known to the administrators of this succession, to the end that they conform to this decision. Given in St. Louis, of Illinois, the tenth day of the month of June, of the year one thousand seven hundred and eighty-six. Eugene Alvarez, Louis Dubreuil, Gaspar Roubieu.

DON FRANCO. CRUZAT.

Notification.—I, Mariano Izaguirre, first corporal of the troops which garrison these posts of Illinois, (for want of an alguacil) have notified the foregoing act to Dona Maria Louisa Decham, and to Don Carlos Tayan, administrators of the succession of the deceased, Don Louis Chancellier, speaking with them in person. St. Louis, of Illinois, the tenth of June, one thousand seven hundred and eighty-six.

MARIANO IZAGUIRRE.

Don Franco. Cruzat, lieutenant colonel by brevet of infantry, commander-in-chief and lieutenant governor of this western part of Illinois and its districts, certify that all these which go before are the literal copies of the originals deposited in the archives of the government within my command, to the which I refer. St. Louis, of Illinois, eleventh of June, one thousand seven hundred and eighty-six.

FRANCO. CRUZAT.

Having seen the above, let there be delivered, in satisfaction to Dona Louisa Decham, the amount of six hundred dollars, which, according to her marriage contract, it appears she brought into the marriage, excluding her from any other pretension whatsoever against the property of her said husband, respect being had to its appearing that there is not property sufficient to replace to the minor his legitimate paternal share. New Orleans, twenty-fifth of February, of the year one thousand seven hundred and eighty-seven.

ESTEVAN MIRO.
PO. PASTIGO.

Seeing the final decree foregoing pronounced by the senor Estevan Miro, colonel of the royal armies, and governor of this province of Louisiana, with the advice of his auditor, let it be made known to Dona Louisa Decham, widow of the deceased, Don Louis Chancellier, and to Don Carlos Tayan as surrogate tutor of the succession aforesaid, in order that they may conform

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exactly to its contents. Given in St. Louis, of Illinois, this twelfth day of the month of September, of the year one thousand seven hundred and eighty-seven.

I, Mariano Izaguirre, second sergeant of the troops which garrison these posts of Illinois, (for want of an alguacil,) have made known the foregoing decree to Dona Maria Louisa Decham and Don Carlos Tayan, speaking with them in person, and to the end that they may not allege ignorance, have signed with me, the above named sergeant, in St. Louis, of Illinois, this twelfth of September, one thousand and seven hundred and eighty-seven. Maria Louis Chancellier, Charle Tayan.

MARIANO IZAGUIRRE.

In the town of St. Louis, of Illinois, the twelfth day of the month of September, of the year one thousand seven hundred and eighty-seven, I, Don Francisco Cruzat, commandant and lieutenant governor of this western part and district of Illinois, accompanied by the witnesses of assistance, Don Louis Dubreuil, Don Gaspar Roubieu, and Don Louis Eugenio Alvarez, all neighbors, and residents of this aforesaid town, in virtue of the final decree given by senor Don Estevan Miro, colonel of the royal armies, governor of this province of Louisiana, caused to appear before me, and in presence of the aforesaid witnesses of assistance, Dona Louisa Dechamp, widow of the deceased, Don Louis Chancellier, and Don Carlos Tayan, surrogate tutor of the minor of the said succession, to settle and make partition of the funds of said succession between the widow and her son as only and lawful heirs of said succession, the which it is proceeded to execute in form following:

	Livres. s. d.	
Nett total amount for partition - - - -		9,334 7 6
Deduct for satisfaction of Dona Louisa Decham, wife that was of the deceased, Don Louis Chancellier, and her portion brought to the marriage, as appears by her marriage contract - - - -	3,000	
For what remains in favor of the minor, Louis Chancellier, and is deposited in the hands of Don Carlos Tayan, surrogate guardian of said minor, the amount of six thousand and three hundred and thirty-four livres seven sous and six deniers - -	6,334 7 6	
Equal to		9,334 7 6

And after having examined all the papers of the succession, and made the partition as appears in the foregoing account, have signed with me, lieutenant governor, the witnesses of assistance, and other parties, under date as above, Marie Louisa Chancellier, Charles Tayan, Gaspar Roubieu, Eugo. Alvarez,

FRANCO. CRUZAT.

For want of a notary, before me, Don Francisco Cruzat, commandant and lieutenant governor of this the western part and district of Illinois, and in presence of the witnesses of assistance, Don Louis Dubreuil, Don Gaspar Roubieu, and Don Eugenio Alvarez, were present, in person, the said Don Carlos Tayan, sub-lieutenant by brevet of infantry, as surrogate guardian of

the minor of the succession of the deceased, Don Louis Chancellier, formerly lieutenant of one of the companies of militia of this town, and Dona Louisa Dechamp, widow of the aforesaid deceased, who with common accord have confessed and declared to have this day received, to wit, the aforesaid Don Carlos Tayan, as surrogate guardian of the minor of the succession, the six thousand three hundred and thirty-four livres seven sous and six deniers, of which amount he acknowledges that he has been put into possession, and answers for same with his person and property, present and future, and the aforesaid Maria Louisa Dechamp, the three thousand livres which she brought into the marriage, and which are those which appertain to her, as it appears from the general foregoing account; and in order that this do appear, have signed with me, said commandant and lieutenant governor, and witnesses of assistance, in St. Louis, of Illinois, this thirteenth day of the month of September, of the year one thousand seven hundred eighty-seven, Marie Louise Chancellier, Louis Dubreuil, Gaspard Roubieu, Eugenio Alvarez, Charle Tayan,

FRANCO. CRUZAT.

And plaintiff further gave in evidence, by consent, the following translation into the English language of a document in the Spanish language, purporting to be a marriage contract between said Louis Chancellier and Marie Louise Dechamp, which said translation is in the words and figures following, to wit:

[D. *A marriage contract between Louis Chancellier and Marie Louise Dechamp.*]

In the town of St. Louis, of Illinois, the ninth day of the month of September, of the year one thousand seven hundred and eighty-two, before me, Don Francisco Cruzat, lieutenant colonel by brevet of infantry, commander in chief and lieutenant governor of the western part and districts of Illinois, and in presence of the witnesses of assistance, Don Pedro Oliveir, lieutenant of grenadiers, of the fixed regiment of Louisiana, and Don Diego Blanco, sub-lieutenant of the same corps, for want of a notary, appeared together before me, Don Louis Chancellier, lieutenant of militia of the aforesaid town, stipulating for himself and in his name, of the one part, and Dona Maria Louisa Dechamp, daughter of Don Juan Baptista Dechamp and of Dona Maria Pino, stipulating for and in her name, of the other part, which parties, by the advice and consent of their relations and friends, herein named and present, to wit, on the part of Don Louis Chancellier, Joseph Munbile, his brother-in-law, Don Joseph Chancellier, his brother, Don Bento Vasgay, lieutenant of militia of said town, and Don Pedro Murtardry, sub-lieutenant of the same; and on the part of the said Dona Maria Louisa Dechamp, Don Juan Baptista Dechamp, her father, Don Todor Santor Dechamp, her brother, Don Josef Hartiz, and Don Josef Tayan, all relations and friends, who have made, stipulated, and agreed, on this consummation and marriage contract, which follows, in this form. First, that the said Don Louis Chancellier and the said Dona Maria Louisa Dechamp have promised and do promise, with the consent and advice of their relations and friends aforesaid, to be joined in marriage, and to cause to be celebrated their marriage, as soon as the one party requires it of the other, and as soon as they can, according to the sacred laws of our holy mother the catholic apostolic and Roman church. The said betrothed parties desire and agree that there be

between them community of property, (for such is their will,) to be undivided between them, and to form only one capital of all that which the said contracting parties bring to said marriage; the property of the said Don Louis Chancellier making (according to the just valuation that has been made of it) the amount of sixteen hundred hard dollars; which property consists of real property, animals, horned cattle, horses, and other various goods, moveable and immoveable, and gained in this colony by his industry and labor, and the existence of which he has pointed out to his said future wife, Dona Marie Louisa Dechamp, who in this marriage contract acknowledges the above to be the amount of her said future husband's property, to wit, the amount of sixteen hundred dollars, which amount the said Louis Chancellier wills and desires that if there should be no issue of this marriage, his said future wife should upon his death inherit the whole of it, and for that purpose thus gives, leaves, and abandons it to her; and the property of the said Maria Louisa Dechamp consists of the amount of six hundred hard dollars, which she brings to this marriage, and which have been given to her as a portion by her brother, Don Todor Sante Dechamp, out of the property acquired by his industry and labor in this colony, which amounts, as well of the husband's as of the wife's, are to be incorporated in the total mass formed between both for the community specified in this contract. The said contracting parties desire, and it is their will, that all the product and gains which follow from the community and amount of goods which they have reciprocally this day joined to form it, and hereinbefore specified, shall remain to the survivor, if there shall be no issue of the marriage, and there being such, they will conform themselves to the laws of Castile and the recopilacion of the Indies. They, the said parties, husband and wife, obligating themselves to pay out of the property which they bring to this marriage, and before specified, (for such is their mutual wish,) all the debts which they have contracted before their espousals, for so they have stipulated and agreed, promising, &c. obligatory, &c. made and passed in the hall of the government of St. Louis, of Illinois, on the same day and year as above; and the parties and witnesses who do not know how to write, have made their sign of a cross in presence of the said witnesses of assistance, who have signed with me, said lieutenant governor. Louis Chancellier, Maria Louisa Dechamp, mark of × Don Juan Bap. Dechamp, mark of × Don Todor Santor Dechamps, mark of × Joseph Munbile, Bento Vasgay, Joseph Hartiz Mantardy, Pedro Olivier, Diego Blanco.

FRANCO. CRUZAT.

And plaintiff further gave in evidence, by consent, a document purporting to be an original deed of conveyance and exchange, in the Spanish language made, and also a translation into the English language, of said deed, which said translation is by consent of said parties here set out, and is in the words and figures following:

[E. *A deed of conveyance and exchange between Gamache and Chancellier.*]

There being no notary, before me, Don Pedro Piernas, captain of infantry, and lieutenant governor of the establishments and dependencies of the Illinois, and in presence of Mr. Martin Duralde, writer, and Eugene Alvarez, serjeant of this garrison, witnesses of assistance, appeared John Baptiste Gamache, in his person, inhabitant of this post, St. Louis, who by these

presents declares and confesses to have sold, ceded, relinquished, and transferred, the day of this date, now and for ever, and promises to answer for all disturbances, debts, dower, mortgages, evictions, substitutions, and generally every other soever impediment, to Louis Chancellier, also inhabitant of said post, who is present, and consents for himself, his heirs, and others, who may have right, the half of one tract of land, containing one arpent in breadth by forty arpents in depth, who holds and owns it because of the king having granted it to him in the prairie the nearest to and beyond this post; which half will be bounded on the one side by the land of Louis Bissonet, inhabitant, and on the other side by the other half, which the said vendor retains to himself in exchange for an axe and one half arpent of land on a line, and of forty arpents in depth on the other, which the said Louis Chancellier cedes to the said John Baptiste Gamache, of a piece of land of greater dimensions, which he holds and owns because of the king having in like manner granted it to him in the grand prairie, situated to the west of this post, bounded on the one side by the land of John Baptiste *Harcreuz*, armorer, and on the other by what remains to said Louis Chancellier, of which objects of exchange both parties assure to be put into possession in virtue of these presents, and are reciprocally satisfied, because of having seen and well examined them, without that either of them can demand any other thing, it being agreed that each of them pay for what he receives with that which he gives, in consequence of which the said John Baptiste Gamache and Louis Chancellier have dispossessed themselves, and have made a transfer, the one in favor of the other, of that which they reciprocally cede, in order that each in virtue of these enters from this time into possession, enjoys, and disposes of it, as of a thing lawfully acquired, for so they have stipulated and agreed, promising, &c. obligating, &c. Made and passed in St. Louis, in the chamber of the government, the twenty-ninth day of January, of the year seventeen hundred and seventy-three; and have signed with me the witnesses mentioned, and said parties, with the exception that John Baptiste Gamache, who being interrogated and called on according to the ordinance, having declared not to know how to sign, made his mark, after reading made of all that which goes before.

Mark × of JOHN BAPTISTE GAMACHE.
LOUIS CHANCELLIER.

Mr. DURALDE,
EUGENE ALVAREZ,
Witnesses.

PIERNAS.

Foregoing translation referred to in deposition, August 22, 1828.
J. SPALDING, *Comm.*

And said plaintiff further gave in evidence, by consent, a document purporting to be an original deed of conveyance, in the Spanish language, made by and between Maria Magdalena Rovillard and Louis Chancellier, and also a translation into the English language of said deed, which translation is by consent of said parties here set out in the words and figures following:

[*Deed from Rovillard to Chancellier.*]

There being no notary, before me, Don Francisco Cruzat, lieutenant colonel by brevet rank of infantry, commander in chief of the western part of Illinois, and lieutenant governor of said district, appeared Maria Magdalena Rovillar, who by these presents declares and confesses to have this day

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sold, ceded, relinquished, transferred, and abandoned, as well now as for ever, and promises to cause to be enjoyed, and to preserve from all debts, dower, mortgages, evictions, substitutions, and other impediments, whatsoever, generally, all those that can exist, to Don Louis Chancellier, inhabitant of this village, here present, stipulating, accepting, purchasing, for him and his heirs and others who represent his right, one arpent of land in front by forty arpents in depth, in the first prairie next to the village, bounded on one side by John Baptiste Beguite, and on the other side by John Baptiste Gamache, which said purchaser says he knows and is acquainted with, from having seen and visited it, with which he is satisfied, without any reservation or retention, the said Don Louis Chancellier, by having acquired it lawfully and conformably to the laws, for the sum and price of four hundred livres, it being expressed that two hundred be paid in hard dollars, or certificates of the king, or work for the king, and two hundred livres in shaved deed skins, paid down, of which the said Maria Magdalena Rovillar holds him acquitted of the two sums, because of having received them, and to have so agreed and stipulated, promising, &c. obligating, &c. Made and passed in the hall of the government of St. Louis, of Illinois, in presence of Rene Guiercero and Louis Rover, inhabitants of this village, witnesses of assistance, who have with me, the said lieutenant governor, signed these presents, in St. Louis, of Illinois, on the sixth of April of 1781.

MARI RENEUX ROVILLAR.
LOUIS CHANCELLIER.

RENE KISIRAUX,
Senat × de LOUIS ROVER.

FRANCO. CRUZAT.

The foregoing translation referred to in deposition, taken August 22, 1828.

J. SPALDING, *Commr.*

And the plaintiff further gave in evidence two original deeds of conveyance, the one purporting to be made by Basel Laroque and Marie Louise Laroque, his wife, to George F. Strother, and the other by said Marie Louise Laroque, widow of said Basel Laroque, to said George F. Strother, which said deeds are in the words and figures following, to wit:

[*Deed from Laroque and his wife to George F. Strother.*]

This indenture, made this twenty-first day of March, in the 1827, between Basel Laroque, and Marie Louise Laroque, his wife, the widow of Louis Chancellier, of the first part, and George F. Strother, of the second part, witnesseth, that for and in consideration of the sum of three hundred dollars, in hand paid by the said George F. Strother to the said parties of the first part, the receipt whereof is hereby acknowledged, we have bargained, sold, and transferred, and by these presents do bargain, sell, and transfer, to the said George F. Strother, his heirs and assigns, the following real estate, land, and lots, to wit, three arpents of land by forty, situated in the common fields, near the city of St. Louis, being that parcel of land upon which the said Marie Louise Laroque resided; one lot of ground on the hill in the city of St. Louis; three arpents of land in the prairie near the city of St. Louis; and two other lots in the city of St. Louis; together with all the houses and improvements thereon; and all other lands or houses and lots lying, being, and situated in the city of St. Louis, in the county of St. Louis, or in the county of Jefferson, to which we are entitled by, under, or through

Louis Chancellier; it being the intention of the said Basel Laroque and Marie Louise Laroque, widow of Louis Chancellier, hereby to convey the above described houses, lots, and land, and to sell, transfer, and convey to the said George F. Strother all the lands, lots, houses, and improvements, to which they, or either of them, are entitled, or have right, by conveyance, marriage contract, succession, or inheritance, from Louis Chancellier, or by purchase at the sale of the property of said Louis, after his death, or by a decree or decrees of the Spanish authorities, of the property or estate of said Louis Chancellier, to have and to hold to the said George F. Strother, his heirs and assigns, all the above described property, lands, lots, and houses, free from the claim or claims of the said Basel Laroque and Marie Louise Laroque, late Marie Louise Chancellier, their heirs, &c. Witness our hands and seals, the day and year first above mentioned.

his
BASIL × LAROQUE. [L. S.]
mark.
her
MARIE LOUISE × CHANCELLIER. [L. S.]
mark.

JNO. MILLINGTON,
BASEL LAROQUE,
CHA. S. HEMPSTEAD,
Witnesses.

[*Deed from Marie Louise Chancellier to George F. Strother.*]

Know all men by these presents, that I, Marie Louise Laroque, widow of Basel Laroque, deceased, of St. Charles, county of St. Charles, do hereby, in consideration of the sum of three hundred dollars, to me in hand paid by George F. Strother, the receipt whereof is hereby acknowledged, sell, assign, convey, and quit claim, unto the said George F. Strother, his heirs and assigns, all my right, title, interest, and estate, in and to all the property, real and personal, purchased by me at the sale of the property and estate of my first husband, Louis Chancellier, formerly of St. Louis, in the county of St. Louis, deceased, which sale took place on or about the twelfth, thirteenth, or fourteenth days of June, in the year one thousand seven hundred and eighty-five, as will more fully appear by the record of said sale on file in the office of the clerk of the circuit court of the county of St. Louis, reference being had thereto; and also all my right, title, interest, and estate, in and to all the property, real and personal, adjudicated and transferred to me and my heirs, executors, and administrators, as well under and by virtue of said sale, as by virtue of a partition of the estate of the said Louis Chancellier, duly made between me, as his widow, of the one part, and the infant son of the said Louis Chancellier, by his guardian, Charles Tayan, of the other, and which partition was made in pursuance of and conformable to the decree of Don Estivan Miro, governor general of Louisiana, as will more fully appear by the said final account, partition, and decree, remaining on file in the office of the clerk of the circuit court of the county of St. Louis, being number fifteen hundred and twenty-one of the documents deposited amongst the Spanish and French archives in said office; and I, the said Maria Louisa Laroque do by these presents, for the consideration above mentioned, sell, assign, and convey unto said George F. Strother, and his heirs, the following tracts of land, situated in the county of St. Louis, being part of the property so purchased by and adjusted and distributed to me, as

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widow of said Louis Chancellier, as aforesaid, to wit, all that tract or piece of land situated in the prairie next to the town of St. Louis, and bounded on the one side by land belonging originally to John Baptiste Beguitte, and on the other by land belonging originally to one Louis Bissonet, commonly called Bissu or Bisu, as the said tract is described in said sale and partition, and also in the inventory of the property of my said deceased husband, Louis Chancellier; which said tract, so bounded, consists of two arpents in breadth from north to south by forty arpents in depth from east to west, being the same forty arpent field lots possessed by my said husband at the time of his decease, and purchased by him from Rene Kurcerau or Kercerau, and from John Baptiste Gamache, the original grantees thereof; and I do hereby also convey the other tract, consisting of one half arpent by forty, situated in the great prairie, as described in said sale and partition: to have and to hold the said land and property to said George F. Strother, his heirs and assigns, for ever. It being understood and agreed, that no covenant of seisin is by these presents implied or expressed, and that I warrant the lands and tenements, with their appurtenances, hereby conveyed, against me, my heirs and assigns, and all other persons claiming under me, and not against my title paramount whatever; and I do hereby agree to make all such further assurance and conveyance as may be required, provided same shall not contain any other than a special warranty of said lands and premises. In witness whereof, I have hereunto set my hand and seal, this twelfth day of September, one thousand eight hundred and twenty-eight, at St. Charles, county of St. Charles, State of Missouri.

her
MARIE LOUISE × CHANCELLIER. [L.S.]
mark
LAROQUE.

And plaintiff further gave in evidence an original deed of conveyance from said George F. Strother and wife to Daniel F. Strother, which deed is in the words and figures following, to wit:

[*Deed from George F. to Daniel F. Strother.*]

Know all men by these presents, that we, George F. Strother, of St. Louis, State of Missouri, and Theodosia, the wife of the said George, in consideration of the sum of three hundred dollars, do hereby bargain, sell, and quit claim, unto Daniel F. Strother, of Jefferson county, in the State of Kentucky, and to his heirs and assigns, for ever, all our right, title, interest, estate, and claim, both at law and in equity, of, in, and to all that certain tract of land situated in and adjoining the city of St. Louis, in the county of St. Louis, State of Missouri, consisting of two arpents in front by forty arpents in depth from east to west, being two forty arpent field lots, originally granted, the one to Rene Kiercerau, the other to John Baptiste Gamache, bounded as follows: on the south, by a forty arpent lot or tract originally granted to one John Baptiste Begent, and on the north by a forty arpent tract originally belonging to or granted to one Louis Bissonet, the said two arpents by forty being the same which were occupied and cultivated by one Louis Chancellier, during his lifetime, as having purchased the same from said Gamache and Kiercerau, and after the death of said Louis Chancellier, sold to Marie Louise Chancellier, the widow of said Louis, and adjudicated to her and her heirs, as will appear by reference to documents No. 391 and

No. 1421, now deposited and remaining amongst the original Spanish archives in the office of the clerk of the circuit court in and for the county of St. Louis, State of Missouri, and by said Marie Louise and her husband, Basel Laroque, conveyed and sold, amongst other property, to said George F. Strother, and his heirs, as may appear by said deed, bearing date the 21st day of March, 1827, recorded in the office of the clerk of the circuit court for said county of St. Louis, in book N, page 342, and following: to have and to hold the said hereby granted and conveyed two arpents by forty, with all their appurtenances, unto said Daniel F. Strother and his heirs for ever; it being understood that no other than a special warranty against persons claiming under said George F. Strother and said Theodosia is hereby given. In witness whereof, we have hereunto set our hands and seals, this twentieth day of July, in the year 1827.

GEORGE F. STROTHER. [SEAL.]

Signed, sealed, and delivered, in presence of
J. C. GARNIER.

And plaintiff then gave in evidence the following translation into the English language, from certified copies in the original French language, of entries in the register of marriages and burials at St. Louis, to wit:

[*Copies of burials and marriages.*]

The seventeenth day of April, one thousand eight hundred and five, was buried in the *conventary* of this parish, by me, the undersigned, the body of John Baptiste Gamache, senior, aged about seventy-two years, deceased yesterday; in testimony of which, I have signed, in the absence of the curate. J. BTE. TRUTEAUX, *Chantre*.

In faith of which, I, the undersigned, certify to have correctly copied this extract of sepulture from the register of the parish of St. Louis, folio sixty, this 23d August, 1828. EDMD. SANLORIE.

And the following translation, to wit:

The year one thousand seven hundred and eighty-two, the twenty-second day of the month of April, after having published three banns three consecutive Sundays, between Antony Vincent Bovis, legitimate son of John Baptiste Bovis, and of Theresa Gamille, of Languril, bishopric of Beauport, in the republic of Genoa, of the one part, and of the other, Marie Robert, legitimate daughter of Louis Robert and of Marie Kiercerau, her father and mother, of the other part, and having found no opposition to said marriage, I, priest, capuchin, apostolical missionary of St. Louis, in the Illinois, province of Louisiana, bishopric of Cuba, after having received their mutual consent, then gave them the mutual benediction, in presence of the undersigned witnesses, to wit, John B. Hartez, Nicolas Gai, John Marie Papin, Louis Pothier, Rene Kiercerau, Ortes, Nicolas Gai, L. Pothier, Rene Kiercerau.

L. BANARD,
Cap. miss apost. priest.

I, the undersigned priest, certify to have copied correctly, as far as I am able, this extract of marriage from the register of the parish of St. Louis, State of Missouri, this 12th May, 1829. EDMD. SANLORIE.

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And said plaintiff further gave in evidence, by consent of said parties, a certain original deed of conveyance, in the French language, bearing date the eleventh of January, one thousand eight hundred and eight, from Auguste Chouteau and wife to John Baptiste C. Lucas, said defendant, and also a translation thereof into the English language, which translation. by consent of said parties, is here set out in the words and figures following:

[*Deed from Chouteau to Lucas.*]

Be it known by these presents, that I, Auguste Chouteau, and Therese my wife, duly authorized to make these presents, living in the town and district of St. Louis, territory of Louisiana, for and in consideration of the sum of four hundred and fifty dollars, money of the United States, which have been well and duly paid to us by Mr. Jean B. C. Lucas, first judge of the supreme court of this territory, the receipt of which we acknowledge by these presents, and of which sum we acquit and discharge him, his heirs and assigns, have this day sold, ceded, quitted, abandoned, and transported, as by these presents we do sell, cede, quit, abandon, and transport, from this moment and for ever, and do guaranty and preserve of all troubles, donations, debts, dowers, mortgages, evictions, substitutions, and other impediments generally whatever, to the said Mr. John B. C. Lucas, his heirs or assigns, viz. a certain piece of ground situate at the first prairie adjoining this town westwardly, containing two arpents in front by forty arpents in depth, or eighty arpents of superficies, of which forty arpents have originally been conceded to Rene Kiercereaux, and the other forty arpents have originally been conceded to Joseph Gamache; the whole bounded by a tract of land originally conceded to Jean Baptiste Berguette, and by another tract of land originally conceded to Louis Bissounet; the whole belonging to us, as having become the purchasers of it at the public sale of the property of Mr. Hiacinthe St. Cir, in the year one thousand eight hundred, and by us sold, ceded, quitted, and transported to the said John B. C. Lucas, in order that he, his heirs or assigns, may enjoy the said , and may dispose of it at his own will and pleasure, as a property belonging to him, and by him legally acquired; the enjoyment to begin this very day. In due faith of which, we have signed, sealed, and delivered these presents, in the town, district, and territory as above, this eleventh day of January, eighteen hundred and eight.

(The words "et" Dus, interlined—Dyyrs. goods.)

AUGTE. CHOUTEAU. [SEAL.]
CERRE CHOUTEAU. [SEAL.]

Signed, sealed, and delivered, in presence of
M. P. LEDUC,
D. DELANNAY,
TS. LACOMBE.

And said plaintiff further gave in evidence two duly certified copies, in the original French language, from the livre terrien, book 2, pages 11 and 12 thereof, and also a translation into the English language of said certified copies; which translations are here, by consent of said parties, set out in the words and figures following, to wit:

[*Kiercerau's survey.*]

1798. *St. Cyr.* 1 *arpent.*

Rene Kiercereau. I went expressly from my dwelling at the post of St. Louis, upon a tract of land of one arpent in breadth by forty others in length, to him belonging, partly cultivated, partly uncultivated, situated in the prairie immediately adjacent to this village, and bounded on the one side by that of John Bte. Beguitte, and on the other by that of one Gamache, and on the two other sides by the domain of the king, in order to survey with my instruments, and a chain of forty five feet in length, of which the length taken four times makes exactly the arpent used in this country, which is one hundred and eighty-feet on each front, for the execution of which, causing myself to be accompanied by said proprietor and his said two nearest neighbors to serve me as witnesses of assistance, and to show me exactly the true situation of their respective concessions, I came thereon, and caused it to be bounded in my presence with stones at its four extremities, after having measured it on its lines of breadth and length, of which the two first parallels, that is to say, of breadth, go to the northnortheast or diverge from the north towards the east twenty-two degrees thirty minutes, and the two other lines, that is to say, of length, also parallel, go to the west, quarter northwest, or diverge from the west to the north eleven degrees fifteen minutes, without any regard to the variation of the compass that there may be, and make consequently, in directing the view and going from the point of departure towards the northnortheast, and towards the west, quarter northwest, an obtuse angle of one hundred and one degrees fifteen minutes, compensation being made of the differences caused by the inequalities of the grounds and the inclination of the lines, the one or the other, with reference to the horizontal perpendiculars, which always serve to ascertain the true measure, as well on the length as on the breadth. This I attest by my seal, &c.

RECORDER'S OFFICE, *St. Louis, Jan.* 12, 1828.

I, Theodore Hunt, recorder of land titles in the State of Missouri, do certify the above to be truly copied from livre terrien, book 2, folio 11, on file in my office. THEODORE HUNT.

[*Gamache's survey.*]

1973. *St. Cyr.* 1 *arpent.*

*Joseph Gamache.** I went expressly from my dwelling at this post of St. Louis, upon a tract of land of one arpent in breadth by forty others in length, to him belonging, partly cultivated, partly uncultivated, situated in the prairie immediately adjoining to this village, and bounded on the one side by that of Rene Kiercerau, and on the other by that of Louis Bissonet, and on the other two sides by the domain of the king, in order to survey with my instrument, and a chain of forty-five feet in length, of which the length taken four times makes exactly the arpent used in this country, which is one hundred and eighty feet on each front, for the execution of which, causing myself to be accompanied by said proprietor and his said two nearest neighbors, to serve me as witnesses of assistance, and to show me exactly the true situation of their respective concessions, I came thereon,

* Name of the said Gamache is Baptiste instead of Joseph.

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and caused it to be bounded in my presence with stones at its four extremities, after having measured it on its lines of breadth and length, of which the two first parallels, that is to say, of breadth, go to the northnortheast or diverge from the north towards the east twenty-two degrees thirty minutes, and the two other lines, that is to say, of length, also parallel, go to the west, quarter northwest, or diverge from the west to the north eleven degrees fifteen minutes, without any regard to the variation of the compass that there may be, and make consequently, in directing the view or going from the point of departure towards the northnortheast, and towards the west, quarter northwest, an obtuse angle of one hundred and one degrees fifteen minutes, compensation being made of the differences caused by the inequalities of the grounds, and the inclination of the lines, the one or the other, with reference to the horizontal perpendiculars, which always serve to ascertain the true measure, as well on the length as on the breadth. This I attest, by my seal, &c.

RECORDER'S OFFICE, *St. Louis, Jan.* 12, 1828.

I, Theodore Hunt, recorder of land titles in the State of Missouri, do certify the above to be truly copied from livre terrien, book 2, page 12, on file in my office. THEODORE HUNT.

By consent of parties, the spreading of the documents hereinbefore mentioned, in their original language, is dispensed with.

[*Copies from minutes of proceedings of the board of commissioners.*]

And said plaintiff further gave in evidence, by consent of said parties, a certain certified copy from the minutes of the proceedings of the board of commissioners for the settlement of land claims founded on French and Spanish titles, in the district of Louisiana; which copy is in the following words and figures:

FRIDAY, *March* 31, 1809. [B. 3, p. 533.]

Board met. Present, Clement B. Penrose, Frederick Bates, commissioners.

Auguste Chouteau, assignee of Hyacinth St. Cyr, assignee of Rene Kercereau, claiming one arpent in front by forty in depth, situate in the prairie adjoining the town of St. Louis, produces to the board a concession for the same, registered in livre terrien, No. 2, folio 11, and a plat of survey, certified 24th March, 1806, a certified copy of a conveyance from Kercereau to St. Cyr, dated 23d October, 1793, a certified extract of a public sale made in the year 1801, of the property of Hyacinth St. Cyr, by which it appears that claimant became the purchaser of said tract.

Nicholas Buginoux, duly sworn, says, that about 40 years ago, this tract was cultivated by said Kercereau, and for the following years, until about fifteen years ago.

Laid over for decision.

Auguste Chouteau, assignee of Hyacinth St. Cyr, who was assignee of Joseph Gamache, claiming one arpent in front by forty in depth, situate as aforesaid, produces to the board a concession for the same to said Gamache, registered in livre terrien, No. 2, folio 11, a plat of survey of the same, certified 24th March, 1806, a certified copy of a conveyance from said Gama-

che to said St. Cyr, dated 23d October, 1793, a certified extract of a public sale of the property of said St. Cyr, in the year 1801, by which it appears that claimant became the purchaser of the above tract.

Nicholas Buginoux, sworn, says, that about 40 years ago, this tract was cultivated by Gamache, and for the following years, until about fifteen years ago.

Laid over for decision.

Board adjourned till Monday next, nine o'clock, A. M.

CLEMENT B. PENROSE.
FREDERICK BATES.

MONDAY, *July* 23, 1810. [B. 4, p. 444.]

Board met. Present, Clement B. Penrose, Frederick Bates, commissioners.

Auguste Chouteau, assignee of Hyacinth St. Cyr, assignee of Rene Kercereau, claiming forty arpents of land, see book No. 3, page 534. The board confirm to Auguste Chouteau forty arpents of land, and order the same be surveyed according to the metes and bounds as formerly established, and as described in a report of survey contained in a concession to Rene Kercereau, registered in livre terrien, book No 2, folio 11.

Auguste Chouteau, assignee of Joseph Gamache, claiming 40 arpents of land, see book No. 3, page 534. The board confirm to Auguste Chouteau forty arpents of land, and order that the same be surveyed according to the metes and bounds formerly established, and described in a report of survey contained in a concession to Joseph Gamache, registered in livre terrien, book No. 2, folio 11.

Board adjourned till to-morrow, 3 o'clock, P. M.

CLEMENT B. PENROSE.
FREDERICK BATES.

MONDAY, *June* 10, 1811. [B. 5, p. 176.]

Board met. Present, Clement B. Penrose, Frederick Bates, commissioners.

Cer. 942. Auguste Chouteau claiming under Rene Kercereau, book 4, p. 444, survey at expense of United States.

Cer. 943. Auguste Chouteau claiming under Joseph Gamache, book 4, p. 444, survey at expense of United States.

Board adjourned till to-morrow, eight o'clock, A. M.

JOHN B. C. LUCAS.
CLEMENT B. PENROSE.
FREDERICK BATES.

RECORDER'S OFFICE, *St. Louis, December* 4, 1827.

I, Theodore Hunt, recorder of land titles in the State of Missouri and Territory of Arkansas, do certify the above and foregoing to be truly copied from book No. 3, page 534, book No. 4, page 444 and book No. 5, page 176, containing the minutes of the proceedings of the board of commissioners, on file in my office.

THEODORE HUNT.

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[*Parol testimony.*]

And said plaintiff further proved in evidence that said Basel Laroque, the husband of said Marie Louise Laroque, widow of said Louis Chancellier and of said Joseph Beauchamp, departed this life about three years ago, and between the twenty-first day of March, one thousand eight hundred and twenty-seven, and the twelfth September, one thousand eight hundred and twenty-eight, leaving said Marie Louise his widow; and said plaintiff also proved that said Daniel F. Strother, the plaintiff in this action, is, and at and before the commencement of said action was, a resident and domiciliated citizen of the State of Kentucky; and that the value of said land property described in said declaration, and for the recovery of which this action was brought, is above the value of two thousand dollars lawful money of the United States. And said plaintiff further, by consent of said parties, read in evidence the following depositions, to wit:

[*Deposition of Marie M. Bovis.*]

Marie Magdalen Bovis, being also produced by plaintiff, and cautioned, examined, and sworn, as aforesaid, on her oath, says, being questioned by plaintiff's counsel whether she ever was acquainted with Rene Kercereau, alias Reanaud, and whether he was related to witness, that she knew him, he was her grandfather on her mother's side.

Question by plaintiff's counsel. What was the name of the said Rene Kercereau's wife?

Answer. Marie Magdeleine Robillard.

Question by same. Had said Kercereau any other wife?

Answer. No.

Question by same. When did Rene Kercereau die?

Answer. On the 23d of May, 1799.

Question. When did his wife die?

Answer. She died in 1783, as she believes; she died before her husband.

Question. Where did she die?

Answer. She died in St. Louis.

Cross-examined by defendant.

Do you know from what country Rene Kercereau came?

Answer. He came from France.

Question. Did you understand he came here married?

Answer. Does not know, but thinks said Rene was married when he came to this country.

Question by plaintiff's counsel. Did said Rene and Marie Magdeleine Robillard live together as man and wife?

Answer. Certainly.

MARIE MAGDELEINE V. BOVIS.

Sworn to and subscribed, this 11th October, 1827.

J. SPALDING, *Comm'r.*

[*Deposition of John Baptiste Rivierre.*]

John Baptiste Rivierre det Baccane, being produced by plaintiff's counsel, and examined, and cautioned, and sworn, as aforesaid, deposes.

Question by plaintiff's counsel. Of what age are you, and where born?

Answer. Is aged eighty years, and was born at fort Chartres.

Question by same. When did you remove from fort Chartres to St. Louis?

Answer. Sixty odd years ago; he was ten or eleven years old when he came to St. Louis.

Question by same. Were you here when the common field lots were surveyed?

Answer. He was here.

Question by same. By whom were they surveyed?

Answer. By Mr. Duralde.

Question by same. Were you employed in that survey in any way, and how?

Answer. I was employed in carrying stones to mark the angles.

Question. Do you know a tract among the common field lots that had been granted to one John Baptiste Becquet?

Answer. He does know it.

Question. Have you known a piece of land among the common field lots behind the town of St. Louis, granted to Louis Bissonet, alias Bijou?

Answer. Yes.

Question. Where, to the best of your knowledge, is the said tract granted to said Bijou, now situated?

Answer. It was situated on the south of the St. Charles road, bounded north by that road.

Question. Do you know who was first in possession of the land between Becquet's concession and said Bissonet's?

Answer. Chancellier.

Question. Which Chancellier?

Answer. Louis Chancellier.

Question. How long was said Louis Chancellier in possession of that land to your knowledge?

Answer. Said Louis was the first and the last, to his belief.

Question. Did you ever work upon that land, and for whom?

Answer. I worked there for Louis Chancellier, and cut wheat there.

Question. Was you acquainted with said Louis Chancellier until he died?

Answer. Yes, until he died.

Question. Was he or not in possession of that land until he died?

Answer. I always saw him on it until he died.

Question. Was you or not in St. Louis at the time of the death of said Louis Chancellier?

Answer. No, I was not.

Question. Where were you then?

Answer. At Florisant.

Question. In what year did you leave St. Louis?

Answer. About sixty years ago, more or less.

Question. Do you recollect the year of the Indian massacre, commonly called "le coup?"

Answer. I recollect it well, I was made a prisoner.

Question. Was it before or after that, that you went to Florisant to live?

Answer. A long time after annee du coup.

Question. How many years after, to the best of your belief?

Answer. About ten years after.

Question. What year was the "annee du coup?"

Answer. About 38 or 39 years ago.

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Question. How many years ago, to the best of your belief, did you go to Florisant to live?

Answer. I have said it already.

Question. Do you mean that you went to Florisant after the year called "annee du coup," to live?

Answer. Yes, I say.

Question. Were you acquainted with the wife of Louis Chancellier?

Answer. Yes, sir.

Question. What was her name?

Answer. Marie Louise.

Question. What was the name of her family?

Answer. She was the daughter of John Baptiste Dechamp.

Question. Did she survive her husband?

Answer. She is still living, I believe.

Question. Do you know whether she married after the death of Louis Chancellier?

Answer. Yes, she married again; don't recollect the name; believes it was to one Beauchamp.

Question. Is Beauchamp dead or alive, to the best of your knowledge?

Answer. I don't know.

Question. Is the widow of Louis Chancellier dead or alive?

Answer. I have said she is living.

Question. Were you or not acquainted with one John Baptiste Gamache, living in St. Louis?

Answer. Yes.

Question. When did you know him?

Answer. I have known him a long time, ever since I came to this country.

Question. Did you ever know a Joseph Gamache in this country, or in St. Louis?

Answer. I did not know Joseph Gamache, but I know a Baptiste Gamache.

Question. Was there, to the best of your knowledge, any man of the name of Joseph Gamache in this country at the time of the said survey of the common field lots?

Answer. I never heard of Joseph Gamache.

Question. When, to the best of your recollection, did the common field lots in the rear of St. Louis cease to be cultivated, I mean the forty arpent lots?

Answer. About forty years ago, probably more.

Question. How long after the "annee du coup" was it when they ceased to cultivate said common field lots, to the best of your recollection?

Answer. I have just now been telling.

Question. How many years after the "annee du coup," to the best of your recollection, did the cultivation of said forty arpent lots cease?

Answer. Thirty-nine years.

Question. Did you mean that it was thirty-nine years after the annee du coup, that they ceased cultivating said common field lots?

Answer. To be sure.

Question. Did Louis Chancellier die since the annee du coup?

Answer. He died after annee du coup, he was wounded in that year.

Question. How many years after annee du coup did he die?

Answer. He died eight years after.

Question. How many years is it since the annee du coup to the present time?

Answer. Forty-nine years.

Cross-examined by defendant in person.

Question by defendant. Did you not say that the arpent of land granted to Louis Bissonet, alias Bijou, was on the north side of the St. Charles road?

Answer. I told you no; Bijou's land was below the road, that is south of the road.

Question by same. Have you, since you first came to St. Louis, always lived at St. Louis and Florisant?

Answer. Yes, I have always staid here and at Florisant.

Question. Did they sow and cultivate these forty arpent lots adjoining St. Louis, and, in particular, the lots between Becquet and Bissonet, in the year following the "annee du coup?"

Answer. Two or three years in succession after the annee du coup, they were cultivated.

Question. Have you ever been taken prisoner?

Answer. Yes, I have been.

Question. How long a time were you detained a prisoner?

Answer. I was prisoner a month, and then ran away.

Question. By what means did you ascertain the different times when these events happened, alluded to above?

Answer. In my head.

Question. Can you read or write?

Answer. I know neither A nor B.

his
JOHN BAPTISTE × REVIERE.
mark

Sworn to and subscribed before me, this 11th 1827.

J. SPALDING, *Comm'r.*

[*Deposition of Rene Dodier.*]

Rene Dodier, of lawful age, produced by said plaintiff, being examined, cautioned, and sworn, on his oath, saith:

Question by plaintiff's counsel. How old are you?

Answer. Fifty-nine years last June.

Question. Where were you born?

Answer. In St. Louis.

Question. How long have you resided in St. Louis?

Answer. I have been out of St. Louis thirty years, resided in St. Louis before he left it, the rest of his life.

Question. Do you recollect what is called l'annee du coup?

Answer. I recollect it as well as if it happened to-day, recollecting well the manner in which I was taken in the common fields, meaning surrounded in the common fields.

Question. Were you taken prisoner by the Indians?

Answer. No, sir.

Question. Did or did not a man named Louis Chancellier reside in St. Louis at that time?

Answer. He did reside in St. Louis.

Question. Were you acquainted with him?

Answer. I was.

Question. Is he dead or alive?

Answer. Dead long since.

3/73.

Question. Were you at St. Louis when Louis Chancellier died?

Answer. I was.

Question. Did Chancellier leave a widow?

Answer. He did.

Question. Is she alive?

Answer. She is alive.

Question. Where does she live at present?

Answer. She lives at St. Charles; I saw her this morning.

Question. Do you know whether she married, and to whom, after the death of her first husband?

Answer. Yes, she married Mr. Beauchamp.

Question. Is Mr. Beauchamp dead or alive?

Answer. He is dead, and she married again.

Question. Whom did she marry the third time?

Answer. Mr. Laroque.

Question. Is he alive?

Answer. Yes, he is alive.

Question. Where was she married to Laroque?

Answer. At St. Charles.

Question. Do you recollect when they were married?

Answer. About thirteen or fourteen years ago, but I do not recollect positively.

Question. Do you recollect when Beauchamp died?

Answer. About 18 or 20 years ago, as well as I can recollect.

Question. Do they keep a register of births and burials in St. Charles?

Answer. Yes, a register was kept, and is in the hands of the college at Florisant, the curate who kept it lives now at Florisant.

Question. Are you positive that the said register is in possession of the former curate of St. Charles, now at Florisant?

Answer. Yes.

Question. When you were at St. Louis, did you know the common field lots, the forty arpent lots, near St. Louis?

Answer. Yes, I knew them, and know them still.

Question. Were those common field lots divided from each other by fences?

Answer. No, they were in common.

Question. Do you know of a fence on the eastern front of the said 40 arpent lots?

Answer. I recollect a fence that started from the upper part of the town, that came along to Motard's mill.

Question. Where was the extreme end of that fence?

Answer. The end of that fence was at the Indian village below Vuide Pashe, or at the river des Peres.

Question. Do you recollect if that fence fell down, and at what time?

Answer. For about 25 or 26 years past, I know that that fence has ceased to exist; although I lived at St. Charles, yet I know it.

Question. In what year was it, do you think, that the fence fell down; was it or not under the Spanish government?

Answer. It was under the Spanish government.

Question. Are you sure, do you speak positive, as to the number of years since the fence fell down?

Answer. I cannot speak positive.

Question. Do you recollect who was the last Spanish Lieutenant Governor at St. Louis?

Answer. Mr. Delassus: I ought to recollect him, because he put me in jail or in irons.

Question. Why were you put in irons?

Answer. I was put in the stocks.

Question. Why were you put in the stocks?

Answer. Because I had raised a quarrel; I had gone where I ought not to; I had visited my neighbor's wife.

Question. Were you in l'annee du coup, and how long afterwards acquainted with Louis Chancellier?

Answer. I did know him from l'annee du coup till he died.

Question. Were you or not acquainted with him before the annee du coup, and if so, how long?

Answer. Since I could take notice of things, I knew Louis Chancellier till he died.

Question. Do you know whether Louis Chancellier cultivated any of the common field lots aforesaid, and if so, where were they situated?

Answer. Yes, he cultivated land lying south of John Baptiste Becquet.

Question. Do you know who are the original grantees of the land which said Chancellier cultivated?

Answer. Chancellier had a tract of land of his own, and another from John Baptiste Gamache by exchange.

Question. How long did you know Chancellier to be in possession or cultivation of the land of which you have spoken?

Answer. To my knowledge, he cultivated and possessed the said two tracts above mentioned for 15 or 16 years.

Question. Did Chancellier or not cultivate the said lands of which you have spoken, till his death?

Answer. He did cultivate the same till his death.

Question. Who cultivated and possessed the lands of which you have spoken, immediately after Chancellier's death?

Answer. As long as Madame Chancellier lived in St. Louis after her husband's death, she possessed and cultivated that land.

Question. When did she remove from St. Louis?

Answer. I cannot say: she went to St. Charles about two years before I did.

Question. Was the land which you say was granted to Chancellier himself contiguous to the other tract which he got from Gamache, or not?

Answer. Yes, it was.

Question. Were you or not acquainted with a person named Rene Kercereau?

Answer. Yes, because he was my godfather.

Question. Is Kercereau dead or alive?

Answer. Dead long since.

Question. When did he die?

Answer. Don't recollect.

Question. Do you recollect whether Rene Kercereau ever cultivated any of those 40 arpent lots, and when?

Answer. Yes, but cannot say how many years he cultivated it.

Question. Are you acquainted with a forty arpent lot originally granted to Louis Bissonet, alias Bijou?

Answer. Yes, sir.

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Question. Was the land of Gamache which you have mentioned, south or north from the land of the said Bissonet?

Answer. On the south.

Question. Was Louis Bissonet as generally known by the name of Bijou as of Bissonet, or not?

Answer. He was more known by the name of Bijou than by the name of Bissonet.

Cross-examined by defendant.

Question by defendant. Have you been either a farmer or a boatman?

Answer. I was both.

Question. Did you make any trip six months long?

Answer. No, I was absent on a trip sometimes a month, but not more than three months at any time.

Question. Can you read and write?

Answer. I cannot read or write.

Question. Have you heard often people read almanacs, and give you the time?

Answer. No, I did not hear any one read almanacs; I did not mark the time except by the sun and the stars, like the Indians.

Question. How did you make the computation of time, by the year of the world, or by the year of Christ?

Answer. By the year of Jesus Christ, who gave me light by the sky to know.

Question. What year of Christ is this present year?

Answer. I cannot recollect at present; if I had time to reflect upon it till to-morrow morning, I could say.

Question. What arpent of land did you say that Kercereau cultivated on the hill, and how is it situated?

Answer. It is situate as the others, 40 arpents in depth.

Question. Who did own the lots of land on each side of the lot which Rene Kercereau cultivated?

Answer. On the south side of Kercereau's tract was Baptiste Riviere, to the best of my recollection.

Question. How bounded on the other side?

Answer. Cannot truly say.

Question. Is the oath which you have taken an American oath, or the oath of a catholic christian?

Answer. It is a catholic oath.

Question. Do you know whether Kercereau cultivated only one arpent of land?

Answer. I cannot positively say whether he cultivated one or two.

his
RENE × DODIER.
mark

Sworn to and subscribed before me, this 12th October, 1827.

J. SPALDING, *Comm'r, &c.*

[*Deposition of Laurent Ride.*]

Laurent Ride, of lawful age, being by me carefully examined, and cautioned, and sworn to testify the whole truth in relation to the matters in controversy in said suit, on his oath, deposeth as follows:

Question by plaintiff's counsel. How old are you?

Answer. Sixty-eight years complete.

Question. Where were you born?

Answer. At a place called Fox Hill, the other side of Cahokie.

Question. When did you first become a resident west of the Mississippi?

Answer. The same year that St. Louis was established.

Question. How many years did you remain a resident of St. Louis and its vicinity after you first came here?

Answer. I came here when St. Louis was first established, and have been an inhabitant of St. Louis ever since.

Question. Were you or not acquainted with a man named Louis Chancellier, formerly a resident of St. Louis?

Answer. Yes.

Question. How many years were you acquainted with Louis Chancellier?

Answer. I knew him when I was a child, and I knew him until he died.

Question. Do you know of Louis Chancellier's having cultivated any land at St. Louis? if so, state what it was.

Answer. Yes, on the hill in St. Louis.

Question. Do you know of any land formerly belonging to a man named Bijou, or Bissonet, on the hill in St. Louis?

Answer. Yes, sir.

Question. What quantity of land belonged, or was reputed to belong, to said Bissonet, or Bijou, on the hill in St. Louis?

Answer. I do not know what quantity; all the inhabitants in St. Louis had their lands from the high mounds to a fence adjoining the commons; some had two and a half arpents, some one, &c.

Question. Do you mean one and two and less arpents, by forty?

Answer. Some had two arpents upon forty, and some one arpent upon forty deep, but I do not know what Mr. Chancellier had.

Question. Did you know of John Baptiste Becquet's?

Answer. Without doubt I know it, for I have worked on it often.

Question. Who cultivated the land previous to the death of said Chancellier, between said Bijou and said John Baptiste Becquet?

Answer. It was Mr. Renaud.

Question. Where were the lands which you said you saw Mr. Chancellier cultivate?

Answer. They are those on the hill; the land marks will show where they are; it is so long a time I cannot recollect exactly.

Question. Do you recollect what is called here the year of the attack, (l'annee du coup.)

Answer. I remember it very well, I was in it.

Question. Did Mr. Chancellier cultivate the land spoken of at that time?

Answer. Very long before.

Question. Did he cultivate the land you speak of at the time of his death?

Answer. Yes, sir; that is, that he caused it to be cultivated, and had hands, and his brother cultivated it for him.

Question. Did you ever work on the land for said Louis Chancellier?

Answer. Yes, sir, I cut wheat on it; he had a large stone house used for a ball room; I and the other young men cut wheat there, on condition that he would let us have the use of said house as a ball room.

Question. You stated that said land was on the hill in St. Louis; describe the said land as well as you can, with reference to existing marks or objects, &c.

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Answer. I cannot say precisely now, it is so long a time; the gentleman showed me where it was, and I thought I saw a stone; Col. Strother showed me this morning.

Question. Was the ground examined by you this morning, in your opinion, the same cultivated by said Chancellier, or not?

Answer. I think it is there somewhere; the bounds have been so changed that I cannot say whether it was on this side or that side, but it is thereabouts.

Question. Was the land cultivated by Chancellier to the south or to the north of the land of Bijou?

Answer. I believe that the land of Bijou was *here*, and the land of Chancellier *was there*.

Question. Do you know what north and south means?

Answer. I think yes; that the north is that way, and the south is this way.

Question. Do you mean then, according to your notions of north and south, that Bijou's land was north or south of Chancellier's?

Answer. Upon my word I do not know whether it was north or south, but it was about as I have shown it. .

Question. Was the land of Chancellier adjoining or not to the land of Bijou?

Answer. Yes, sir, they did join; there was but a land mark that separated the two; that was the way the lands were generally.

Question. You stated that Mr. Renaud cultivated land; was he cultivating the land at the time of said Chancellier's death?

Answer. He was not, he died before Mr. Chancellier; I do not know who cultivated it since.

Cross-examined by defendant's counsel.

Question by defendant's counsel. How old were you when you first came to St. Louis?

Answer. I was sucking at the time I came to St. Louis; my deceased father came and settled himself here.

Question. How many years did Chancellier cultivate the land you mention?

Answer. I do not recollect how many years Chancellier cultivated the land; I was often absent boating.

Question. How many arpents in width did Chancellier cultivate?

Answer. I cannot assure you whether it was one and a half or two arpents.

Question. Who were the gentlemen who showed you the land?

Answer. How showed me the land?

Question. The land you said Chancellier cultivated, and which you say that some gentlemen showed you lately; who were these gentlemen?

Answer. Mr. Chancellier himself showed it to me.

Question. Have you been lately looking to see where that land lay?

Answer. It was many years ago since I have been there, until we went this morning, when I could find no land marks.

Question. Who were the persons who went there with you this morning?

Answer. It was me and Col. Strother.

Question. Was Col. Lawless there?

Answer. It was that gentleman who was with me there with Col. Strother.

Question. State whether you could have recollected or known where the ground was, if those gentlemen had not pointed it out?

Answer. I should have been in much trouble to find it; those buildings there confuse me.

Question. Were those gentlemen that were with you this morning good enough to point out where the land lay?

Answer. Yes, they showed us the limits, for we did not remember any more.

Question by defendant, in person. Was there, in the range of those arpents on the hill, any arpent claimed by a man named Ride?

Answer. It is that that is towards Mr. Chouteau's fence near the pond, granted to Louis Ride; we had two arpents there.

Question. Was the said Ride akin to you?

Answer. He was my father.

Question. Do you claim any interest in that land now?

Answer. No, sir; it was sold under decree at the church door.

Question. Have you been lately setting up a claim to that land?

Answer. No, I claim some now which we have at White Ox prairie.

his
LAURENT × RIDE.
mark.

Sworn to and subscribed before me, this 13th May, 1829.

J. SPALDING, *Comm'r, &c.*

[*Deposition of Marie P. Leduc.*]

Marie P. Leduc, of lawful age, being by me examined, cautioned, and sworn as aforesaid, on his oath, deposeth as follows:

Question. Is the paper now submitted to you a correct copy from the record?

Answer. This paper, marked "C, No. 3," is a copy of a matrimonial contract between Louis Chancellier and Marie Louise Dechamp, from the original on file in the office of the recorder and clerk of the circuit court for the county of St. Louis; which copy was made by me, and compared with said original.

Question. Look at the paper now shown you, and say whether it is or not a correct translation of the copy of the matrimonial contract which you have just mentioned.

Answer. This paper, endorsed "M. P. Leduc," in my handwriting, is a true translation of the matrimonial contract above referred to; I have compared it with the said copy.

Question. Look at this paper, and say whether it is a correct copy from the record.

Answer. This paper, marked "D, No. 4," and endorsed with the signa- of deponent, is a copy of the appraisement of the property of Louis Chancellier.

Question. State whether it is an inventory also, or not.

Answer. It also contains a list of obligations and receipts.

Question. State whether this paper is a correct translation of the same.

Answer. This paper, endorsed by my usual signature, is a true translation of the paper above referred to, last mentioned; I have compared it with said copy.

Question. Is the paper now shown you a correct copy from the record?

Answer. This paper, marked "E, No. 5," and endorsed by me with my usual signature, is a copy of the sale of the property of Louis Chancellier, compared by me with the original on file in the office of the clerk of the circuit court, and, ex-officio, recorder for the county of St. Louis.

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Question. Is this paper now submitted a true translation of the paper last mentioned?

Answer. This paper, endorsed by me with my usual signature, is a true translation compared with the said copy last above mentioned.

Question. Is the paper now submitted a correct copy from the record?

Answer. This paper, marked "F, No. 6," and endorsed by me with my usual signature, is a copy of the partition of the property of Louis Chancellier, the original of which is on file in the office of the recorder aforesaid; which copy has been by me compared with the original.

Question. Is the paper now submitted to you a correct translation of the copy last mentioned?

Answer. This paper, endorsed by me with my usual signature, is a true translation thereof, compared with said copy last mentioned.

Cross-examined.

Question by defendant. How do you know that the documents from which the said papers, marked "C, No. 3," "D, No. 4," "E, No. 5," and "F, No. 6," were copied, are original records?

Answer. I will make a history about it. I arrived in this country on the 22d November, 1799; I then had access to the archives kept under the Spanish government, and these papers were then in the archives. When this country was ceded and possession given to the French on the 9th March, 1804, and possession taken on the 10th March same year by the Americans, that then those papers were delivered to Capt. Stoddard, who took possession of this country in the name of both French and American powers; they remained in my custody as secretary of Capt. Stoddard, until I was appointed and commissioned recorder; then these papers were in my possession as the proper officer, and remained so in my possession until the year 1818, when I delivered them to my successor, Archibald Gamble. It was the custom of the Spanish government to preserve the originals, and deliver copies.

Question. Have you continued in the uninterrupted possession of all those papers from the said time when you came to the country down to the year 1818?

Answer. I had access to those papers from 1799 till 1803, and had the key of the place in which they were kept; and from 1803 till 1818, I had possession of them.

Question. Are said archives kept in books or in files?

Answer. In files, except four quires of paper, on which deeds of conveyances, acquittances, matrimonial contracts, are written and executed; from 1796 or '7 to 1799, and within those years, some also were executed and filed.

Question. Were those copies taken from the files or the books?

Answer. From the files.

Question. Do you know whether persons, other than yourself and the officers having custody of said files, have had access to them?

Answer. I do not know whether any other person had access to them prior to 10th March, 1804; as to the balance of the question, I am not bound to answer it, I conceive.

Question. In what capacity did you act after March, 1804, until you were appointed recorder?

Answer. Secretary to capt. Stoddard; syndic by commission from capt. Stoddard, who was first civil commandant of Upper Louisiana and the American government, who left those papers under my care.

Question. During that period, had not other persons access to the Spanish archives?

Answer. Capt. Stoddard had access, but never touched them, they were under lock, and I had always the key.

Question. How do you know that the originals of said four copies were among the Spanish archives in 1799?

Answer. There was a general index kept of all the papers on file among the archives, and on that index I entered all the papers filed in 1799; and that those four papers are entered on that index.

Question. Are they entered on said index by their letters only?

Answer. By their letters, that is, names of parties, and nature of instrument and dates.

Question. How do you know that the originals of those four copies have remained among the archives ever since that index was made?

Answer. As I have stated, they were in 1799 on that index, and I had access to them, as mentioned, till 1804, and from thence they were in my possession as an officer, till 1818.

Question. Did you make the translations of the four copies aforesaid, or were they made by another person; and who was that person?

Answer. Those translations and copies were brought to my room by Col. Lawless, to compare whether those translations were correct; I compared them, as before stated; they are correct; I do not know who made them.

Question. Look at the deed now shown you, endorsed "No. 1, J. Spalding," and say whether you are subscribing witness; and state what you know of its execution.

Answer. It was signed and sealed by Auguste Chouteau, and Cerre his wife, in my presence, and I signed them as subscribing witness; also, I took, as justice of the peace, the acknowledgment of said Auguste and wife of said deed, and recorded said deed as recorder.

By plaintiff's counsel.

Question by plaintiff's counsel. In whose possession and custody were said archives spoken of from the time you came to the country until they were delivered up to the United States' authorities?

Answer. In possession and custody of Charles D. Delassus, Lieutenant Governor.

Question. Upon said general index mentioned by you, is there any other inventory, sale, or partition of the property of Louis Chancellier, deceased, other than that of which you have spoken?

Answer. There is no other inventory, public sale, or partition, than those above referred to, since the death of Louis Chancellier.

M. P. LEDUC.

Sworn to and subscribed before me, by said Leduc, this 15th May, 1829. Each of the papers referred to as exhibited to him, whether copies or translations, were endorsed by me, with my signature.

J. SPALDING, *Comm'r, &c.*

[*Deposition of Pierre Chouteau.*]

Pierre Chouteau, sen., a witness produced by said plaintiff, being by me carefully examined, cautioned, and sworn to testify the whole truth, on his oath, deposeth as follows, viz:

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Question. What age are you?
Answer. I was aged 67 years the 10th of last month.
Question. Where were you born?
Answer. At New Orleans.
Question. When did you first come to this country?
Answer. I believe it was in 1764.
Question. Have you habitually resided here ever since, or where?
Answer. Yes, sir; here; I have been here since the foundation of the town; since the first tree was cut.
Question. Do you know the 40 arpent field lots immediately behind the town of St. Louis?
Answer. Yes, sir.
Question. Were you or not here when those 40 arpent field lots were first surveyed?
Answer. Yes, sir; I was here; I was studying surveying under Mr. Duralde, who was then the surveyor general of the country.
Question. Who made the first survey of those forty arpent lots?
Answer. Mr. Duralde.
Question. In what year was said survey of said 40 arpent lots made?
Answer. I am at a loss to tell exactly; it was somewhere about 1772, 1773, or 1774; I cannot be very exact about it, for I was young then.
Question. Were you or not acquainted with a man named Gamache, at the time of said survey?
Answer. Yes.
Question. What was the name of baptism of said Gamache?
Answer. I do not know; I knew him as Gamache, and no otherwise.
Question. Did you know more than one Gamache at that time, in this country?
Answer. No, there was but one; I never knew any other.
Question. Do you recollect when the Gamache you speak of died?
Answer. No, I was not here; he died in Veride Poshe.
Question. Where were you at that time?
Answer. With the Osages.
Question. In what year were you with the Osages?
Answer I cannot say more; I have been 34 years with the Osages.
Question. When did you cease to be with the Osages?
Answer. In 1808.
Question. Did you or not make annual visits to St. Louis while you were with the Osages, and how often?
Answer. Very frequently every year, from March to September.
Question. Do I understand you to mean that you remained in St. Louis from March to September?
Answer. I used to leave the Osage country in March, staid 3 or 4 days on the route, arrived at St. Louis towards the 15th or 20th of March, and left St. Louis again in the beginning of September.
Question. Have you any knowledge of a fence running along the entire front of the said 40 arpent lots?
Answer. Yes.
Question. Do you recollect when that fence was first put up?
Answer. In 1764 or 1765, or somewhere thereabouts.
Question. Do you recollect if that fence ceased to be kept up, and when?
Answer. In 1798 or 1799, or thereabouts.

Question. Do you mean to say that the whole of that fence was kept up till that time?

Answer. Yes, sir; until then the whole fence was kept in repair.

Question. Were you here when that fence fell down?

Answer. Yes, sir; it was in the month of May, the time to make up the fence; several of the inhabitants refusing to make up their fence, it was then abandoned.

Question. Were those 40 arpent lots generally cultivated after said fence fell down?

Answer. No, sir; the cultivation ceased from that time.

Question. State whether you ever knew the Gamache of whom you speak to cultivate or possess any of the said forty arpent lots?

Answer. Yes, he did possess and cultivate.

Question. At what time was that?

Answer. Somewhere about 50 years ago.

Question. Was the Gamache of whom you speak one of the first who had a survey of one of those 40 arpent lots?

Answer. Yes, sir; he was one of the first inhabitants of St. Louis.

Question. Were you acquainted with a Mr. Rene Kercereau, dit Reneau?

Answer. Yes, sir; I ought to have known him, he staid 14 or 15 years at my house.

Question. When did he die?

Answer. I do not recollect; he died in Florisant; and I was not here when he died.

Cross-examined.

Question by defendant. Who cultivated that 40 arpent lot stated to have been surveyed for Gamache, since Gamache ceased to cultivate it?

Answer. It is a thing I cannot well recollect; but I believe it was Chancellier, as well as I recollect.

Question. Did Chancellier cultivate the whole arpent, or not?

Answer. I believe he cultivated the whole; I saw him working there.

Question. Has Hyacinth St. Cyr or not cultivated that arpent?

Answer. He has cultivated it.

Question. Has he not likewise cultivated the arpent belonging originally to Rene Kercereau?

Answer. I believe he did; I saw him cultivate there for many years; but I did not go to see what arpents he was cultivating.

Question. Do you now remember whether said St. Cyr cultivated more than one arpent; and if so, were they adjoining each other?

Answer. They were together; he cultivated a large field of wheat; but I never measured the side of the field.

Question. Did you or not know the situation of an arpent of land belonging to Madame Bijou?

Answer. I know that Madame Bijou had an arpent of land on the hill, but I cannot tell exactly its situation.

Question. Was the said arpent of Madame Bijou situated north or south from St. Cyr's said lots?

Answer. I believe it was north of St. Cyr's.

Question. Were Madame Bijou and widow Bissonet the same persons or not?

Answer. There were two Bissonets, Madame Bijou Bissonet and Madame Francois Bissonet.

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Question. Was there or not a woman called the widow of Louis Bissonet?

Answer. Yes, certainly.

Question. Was Madame Bijou and the widow of Louis Bissonet the same person?

Answer. Yes.

Question. Did Baptiste Becquet or not possess and cultivate one of said 40 arpent lots?

Answer. Yes, he possessed and cultivated one.

Question. Where was its situation?

Answer. They were all neighbors, Becquet, Gamache, and Bissonet, but I cannot tell exactly its situation.

Question. Was the arpent of Baptiste Becquet north or south of the lots cultivated by St. Cyr?

Answer. As well as I can recollect, it was north of St. Cyr's; I am not certain, however.

Question. How long had Mr. St. Cyr those two arpents under cultivation?

Answer. I cannot say how long he cultivated them, but I believe 34 or 35 years ago.

Question. Did he cultivate them one year or several years?

Answer. I cannot say how many, but I know he cultivated them several years.

Question. Did he cultivate them till the fence fell down?

Answer. Yes, I believe he cultivated till that time.

Question. Did those arpents go by the name of St. Cyr's?

Answer. Yes, it was called St. Cyr's land; St. Cyr was my neighbor, and always said "my land," when speaking of that land.

Question. Had St. Cyr a barn or not in those times, and if so, where situated?

Answer. Yes, he had a barn somewhere on the hill behind his house, where he used to store his wheat, but I cannot tell exactly its situation.

Question. Where was situated the house of St. Cyr, with respect to your present house, and how far from it?

Answer. North of mine, on the other side of the street.

Question. Did you or not know said Kercereau cultivating land on the hill?

Answer. Yes, sir.

Question. Do you know the situation of that land?

Answer. Yes, sir; as well as I recollect, it was contiguous to Gamache; those two being the same that were cultivated by St. Cyr.

Question. Do you know that said land of Gamache and Kercereau, afterwards cultivated by St. Cyr, has been cultivated since said fence fell, and by whom?

Answer. I believe Mr. Lucas himself enclosed them; before that they were not enclosed.

Question. Did the enclosure of said Lucas extend over said two arpents in length, or only a part of them in length, but the whole in breadth?

Answer. It may have been the whole breadth, but not the whole length.

Question. How long since Mr. Lucas enclosed said arpents in breadth?

Answer. Some 16 or 18 years.

Question. Are they yet enclosed, and have they from thence been enclosed?

Answer. Since Mr. Lucas began to enclose, they have always been enclosed until this day.

Question. How much land has Mr. Lucas now enclosed, including the breadth of those two arpents?

Answer. I cannot well say, I think he has about 20 arpents in length on the whole breadth, including said two arpents.

Question. How many arpents in breadth is said Lucas's field?

Answer. I think there are five or six arpents in breadth.

Question. Is the whole enclosure in one or in several fields?

Answer. Part of it is cultivated, and part is pasture.

Question. Is it divided into several fields by cross fences?

Answer. Certainly it is.

Question. Is there or not an orchard within said enclosure?

Answer. There is an orchard.

Question. Are there houses and out-houses within said enclosure, and how many?

Answer. Certainly there are; there is a stone house near the pond, built by Lucas, and another brick house near the orchard, and some other buildings.

Question. Had Rene Kercereau a wife, and if so, how long since she died?

Answer. He was married; his wife died about forty years ago.

Examined in chief again by plaintiffs.

Question. When did St. Cyr's possession of said forty arpent lots commence?

Answer. I have said already that I thought it was about 34 or 35 years ago that I saw him there.

Question. Was that the first time or last you saw him there?

Answer. It was the first time; I cannot say exactly the time, but I know it was a very long time ago.

Question. When did Kercereau possess and cultivate the lot mentioned above, as possessed by him?

Answer. In 1766 or 1767 he began his possession.

Question. Had said Kercereau more than one forty arpent lot on the hill behind St. Louis, or not?

Answer. I believe he had but one arpent, but am not very certain.

Question. Did Mr. Kercereau begin to cultivate at the time of the survey above mentioned?

Answer. A long time before, for the survey was made in 1772 or 1773, and the lands were cultivated in 1766 or 1767.

Question. Was Rene Kercereau in possession and cultivation of those lands in 1793?

Answer. No, sir; he did not cultivate there at that time; he came to my house about 1782, '3, or '4, and had ceased to cultivate there.

Question. How long did he stay at your house?

Answer. I have said 14 or 15 years.

Question. How long after he left your house when he died?

Answer. I don't recollect; I believe he died 4 or 5 years afterwards.

Question. What year was the "annee du coup?"

Answer. 1780, on the 25th of May.

Question. Did Kercereau cultivate and possess any of those 40 arpent lots in that year, and which?

Answer. I believe he cultivated there then.

Question. Are you sure of that?

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Answer. No, sir, but I believe it.

Question. Recollect distinctly what year it was that Kercereau came to your house; was it in 1782 or 1783?

Answer. I am not sure, some time after the "coup."

Cross-examined again by defendant.

Question by defendant. Was said Kercereau a widower or not when he came to live with you?

Answer. His wife had been dead for several years.

In chief again by plaintiff's counsel.

Question by plaintiff. In what year and where did Kercereau's wife die?

Answer. I am not sure, but she probably died in 1780, as I believe she had been dead 4 or 5 years before Kercereau came to live with me, but I am not certain; she died in her house in St. Louis, where Gov. Clark's house is now built.

P. CHOUTEAU.

Sworn to and subscribed before me, this 19th November, 1827.

J. SPALDING, *Comm'r, &c.*

[*Deposition of Jean Tayan.*]

Jean Tayan, produced by said plaintiff, being examined, cautioned, and sworn as aforesaid, on his oath, saith:

Question. How old are you; where born; and how long have you been in this country?

Answer. I am 58 years old on the 12th June next; I was born in St. Louis; I have always been here since I was born.

Question. Were you acquainted with the forty arpent field lots adjoining St. Louis?

Answer. Yes, sir; I have known some of them.

Question. Did you know a 40 arpent lot originally belonging to a man named Bijou or Louis Bissonet?

Answer. Yes.

Question. Did you know a lot originally belonging to John Baptiste Becquet?

Answer. Yes.

Question. Do you know the arpent lots situated between those two?

Answer. I believe I saw Chancellier cultivate there, but I don't know whether the land belonged to him, nor do I know whether the tract cultivated by Bijou belonged to Bijou.

Question. Are you certain you saw Chancellier cultivate there, and how long?

Answer. Yes, I saw him cultivate there, but I cannot tell the length of time.

Question. How many arpents were there between said Bijou and Becquet?

Answer. I cannot tell exactly, they were neighbors.

Question. Were you here in l'annee du coup?

Answer. Yes.

Question. Did Chancellier cultivate the said land between Bijou and Becquet, in that year?

Answer. Yes.

Question. Did you ever work for Chancellier, or till that land for him?

Answer. No.

Question. Did you at that time work upon any land in the neighborhood of it?

Answer. Yes, sir.

Question. Were you about that time acquainted with a man named Gamache?

Answer. Yes.

Question. State his name of baptism.

Answer. I knew him as Gamache, and no other name.

Question. Did you or not ever hear him called by the name of John Baptiste Gamache?

Answer. No.

Question. Did you or not ever know a man named Joseph Gamache?

Answer. No, sir.

Question. Do you know for whom the first survey was made of the lots between said Becquet and Bijou?

Answer. Oh, sir, I have no knowledge of that.

Question. Do you recollect the time when the fence was put up in front of those 40 arpent lots?

Answer. No, I have no knowledge of it.

Question. Do you recollect when the fence fell down?

Answer. No, I don't know exactly when it fell.

Cross-examined by defendant.

Question by defendant. Have you ever known Hyacinth St. Cyr to cultivate or not any of those 40 arpent lots?

Answer. No, I do not recollect; he may have cultivated some of those lands, lands then were very cheap; they were given up to those who would make the fence; they changed from hand to hand; this was not entered in the register; they were given up in that way by the churchwarden.

Question. Did you ever inspect or read the register to which you refer?

Answer. No, sir.

Question. Did you ever see Joseph Hibert or not working any land south of old Mr. Tayan's arpents?

Answer. I have not seen it.

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JEAN × TAYAN.
mark

Sworn to and subscribed before me, this 19th November, 1827.

J. SPALDING, *Comm'r, &c.*

[*Deposition of Pierre Chouteau.*]

Pierre Chouteau, being produced by said plaintiff, and carefully examined, cautioned, and sworn to tell the whole truth, deposeth as follows:

Question by plaintiff's counsel. State if you have any explanation to give of your former testimony in this case.

Answer. I had forgotten, when I gave my testimony before, the christian name of Gamache; I have recollected it since; his name was John Baptiste Gamache.

Cross-examined.

Question by defendant. How long have you been an inhabitant of St Louis?

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Answer. In my former deposition, I have said that I have been here sixty-one years.

Question. How long since you first knew Mr. St. Cyr in possession of the two arpents you mentioned in your former deposition, and now in dispute in this suit?

Answer. There might be 30, 32, or 33 years, I am not positive at all; it was a business that did not concern me.

Question. How old are you?

Answer. Sixty-seven years old; and I came here when I was six years old.

Question. Who did you first see in possession of those two arpents after you came here?

Answer. The first person I knew in possession of those arpents was the person to whom the land was granted, John Baptiste Gamache.

PIERRE CHOUTEAU.

Sworn to and subscribed before me, the 12th January, 1828.

J. SPALDING, *Comm'r, &c.*

[*Deposition of Madame Vincent Bovis.*]

Marie Madeleine Vincent Bovis, being produced on behalf of said plaintiff, and by me carefully examined, cautioned, and sworn to tell the whole truth, deposeth as follows, viz:

Question by plaintiff's counsel. Were you acquainted with Rene Kercereau, formerly of St. Louis?

Answer. Yes.

Question. Was he related to you, and how?

Answer. He was the father of my mother.

Question. What was the name of Rene Kercereau's wife before he married her?

Answer. Marie Madeleine Robillar.

Question. How long, to your knowledge, did said Kercereau reside in St. Louis?

Answer. He and his wife always lived here till their death.

Question. Was Rene Kercereau present at your marriage?

Answer. I believe so; I am not positive.

Question. Do you recollect whether he signed as witness on the marriage register, when you were married?

Answer. It might have been; it might not; I do not recollect.

Question. Does his name appear on the register of marriages?

Answer. I do not recollect; it may be, or it may not be.

Question. In what year were you married, and in what month?

Answer. In the year 1782; in the month of April, about the twenty-seventh; I am not certain.

Question. Did Rene Kercereau, to your knowledge, act in any official character in the catholic church; and if so, in what character?

Answer. He was the chantre, as Mr. Rodier is.

Question. How many years did Mr. Kercereau officiate as chantre in said church, to your knowledge?

Answer. About twenty years, more or less; near about twenty years.

MARIE MD. V. BOVIS.

Sworn to and subscribed before me, this 13th August, 1828.

J. SPALDING, *Comm'r, &c.*

[*Deposition of Madame Laroque.*]

Marie Louise Laroque, produced on behalf of said plaintiff, being by me carefully examined, and cautioned, and sworn to testify the whole truth, on her oath, deposeth as follows:

Question by plaintiff's counsel. Where were you born, and how old are you?

Answer. I was born in St. Louis, and am sixty-four or sixty-five years of age.

Question. Have you been married, and to whom?

Answer. For the first time, to Louis Chancellier; the second time, to one Joseph Beauchamp, at St. Louis; the third time, to one Basil Laroque, at St. Charles.

Question. When did your first husband die?

Answer. I cannot recollect; you may be able to see it from my papers, a marriage contract.

Question. Where did Louis Chancellier, your first husband, die?

Answer. At St. Louis, at the house he then occupied, where now Madame Laquisse lives.

Question. How long after Louis Chancellier died did you reside in St. Louis?

Answer. Two years and a half, perhaps more, perhaps less; I cannot recollect exactly.

Question. Did you remain in St. Louis until the date of your second marriage, or not?

Answer. Yes, sir, I did; I went and got married at my sister's, Madame Charles Tayan, who was then living at the same place where Madame Dodier now resides; from thence we went a whole procession to St. Charles, in order to avoid a charivari.

Question. Have you resided in St. Charles ever since your second marriage, or not?

Answer. Yes, sir, I have always remained at St. Charles.

Question. Did you, after the death of your first husband, Louis Chancellier, become the purchaser of any part of his estate?

Answer. Yes, sir.

Question. What property?

Answer. The property I bought of Louis Chancellier's estate was one arpent and a half of land.

Question. Was there any other property of Louis Chancellier purchased by you?

Answer. Yes, sir; I bought back my former house, which is now occupied by Madame Laquaisse.

Question. Did you buy any other property belonging to the estate of Louis Chancellier?

Answer. No, not at my vendue, I did not buy any thing else; but you are not ignorant that I had possession of property on which there was a stone house, separated from your father's by a cross street, and for that property I did not receive a cent.

Question. Where is this arpent and a half of which you speak situated?

Answer. It was bounded on the north by land belonging to Piericbe Bijou.

Question. Are you certain Bijou's name was Piericbe?

Answer. No; it seems to me it was his name; he had a son named the same; Bijou was a Canadian.

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Question. What was the southern boundary of the arpent and a half above mentioned?

Answer. As far as I recollect, it was Mr. Becquet; I always understood my husband to say that the boundary of the south side was Mr. Becquet; it was not a concern of women; I had many other things to do besides about the house.

Question. After the death of your husband, did you occupy the arpent and a half which you said you bought? (withdrawn.)

Question. Who, after the death of your husband, occupied the arpent and a half above mentioned?

Answer. It was occupied by Mr. St. Cyr, to whom we had lent it for to maintain the fence. My husband, after having lent the land as aforesaid, told me of it, and I answered it was well, saying it would be the cause of keeping the fence in good order.

Question. What husband do you mean?

Answer. Louis Chancellier.

Question. After your first husband's death, while you remained in St. Louis, did you or did you not have said arpent and a half of land cultivated?

Answer. No, sir; I was left alone with a small child; I have since had the misfortune to lose it.

Question. At the death of your husband, Louis Chancellier, who was in possession of said arpent and a half of land?

Answer. Nobody but myself; being the wife of Chancellier, and heir to his estate, it was left in my hands.

Question. Who was in possession of that arpent and a half during the life of your first husband, Louis Chancellier?

Answer. Nobody but himself; he cultivated the same every year; he used to get very important crops from that land, and used to occupy it every year.

Question. Did or did not Mr. Beauchamp, your second husband, give St. Cyr permission to occupy said tract of an arpent and a half?

Answer. I just now told you that Mr. Beauchamp had permitted St. Cyr to cultivate said tract, for maintaining the fence in good order.

Question. From the time of your marriage with Louis Chancellier till his death, who was in possession of said arpent and a half of land?

Answer. Nobody but him.

Question. Were you acquainted with one Rene Kercereau, formerly of St. Louis, commonly called Renaud?

Answer. Yes, sir; I knew him perfectly well, he being my godfather

Question. In what official capacity was said Kercereau in the catholic church, or was he in any?

Answer. He was a singer, (chantre,) and I never knew him in any other capacity.

Question. In a former part of your testimony, you said that Louis Chancellier gave permission to St. Cyr, , occupy and cultivate said land on condition of keeping up the fence, and you afterwards said that it was Joseph Beauchamp that gave such permission; please to explain the contradiction, and state which of them it was that gave that permission.

Answer. After the death of Louis Chancellier, he could not give any permission; that Mr. Beauchamp continued to Mr. St. Cyr the same permission to St. Cyr, to occupy and cultivate the said land for the keeping up and repairing the fence.

Question. Did or did not Louis Chancellier, your first husband, ever give

permission to St. Cyr to occupy said arpent and a half on condition of keeping up the fences, or on any other condition?

Answer. No, sir; I repeat and say to you that no person ever heard a dead (maribond) person speak.

Question. Did or did not ever Louis Chancellier, your first husband, during his lifetime, ever give such permission to Mr. St. Cyr?

Answer. No, gentlemen, a thousand times no; Beauchamp gave that permission.

Question. Was there or not ever any proposition made to you by Mr. Auguste Chouteau, upon the subject of that arpent and a half; and if so, when?

Answer. About 11 or 12 years since, Mr. Auguste Chouteau came to me at my niece's dwelling, (Madame Seraphin,) with Mr. Leduc in company, who offered me two hundred dollars, if I was willing to receive it, for this property; I answered, that for such a piece of property I could not take so moderate an offer. To prove to you that I have never been a woman disposed to be troublesome, the day I left this place I stopped my driver to call in at that old villain's, (vilain.) I entered at Mr. Chouteau's, was seated, was very weak at that moment; a glass of wine was offered me; I thanked him, and told him I had come to see him on account of the propositions he had made to me a few days previous; he said to me, it is true that I went to you to make you an offer, but I am now no further inclined to do so. On his refusal, I observed to Mr. Chouteau that he must not be surprised if I, in future, would see this affair in the hands of some one who would take my interest; and I have had the good fortune to find such. My intentions were to procure somebody to take my interest.

Question. Did you ever make any arrangement with Mr. Leduc, in relation to any property of yours, and if so, with relation to what property, and at what time?

Answer. Thirteen years ago, more or less, I had sixty feet of ground near a lot of Gabriel Cerre's; Mr. Leduc was sent by the Papins to me at St. Charles to purchase it; there was a barn on that lot struck with lightning; while Mr. Leduc was with me, I told him I would not set a price on it, but would, in a few days, send my son to him, who would be authorized to sell the lot and state the price, and that Mr. Leduc might give the price to him. I was told that one Papin was upon the lot.

Question. Did you sell that lot?

Answer. Yes, sir, I did so.

Question. To whom?

Answer. I sold it to Mr. Leduc, who told me it was for Mr. Papin, his brother-in-law.

Question. Was or was not that lot a part of the property included in the inventory of your husband, Louis Chancellier, after his death?

Answer. That lot was separate from my lands by a fence.

Question repeated.

Answer. Yes, sir, it was.

Cross-examined.

Question by defendant's counsel. Who conducted the sale of your husband, Louis Chancellier's, property, after his death?

Answer. It was Mr. Cruzat, who was commandant.

Question. Was there any inventory or list of sales, or any other writing concerning that sale?

Answer. Yes, sir, there was inventory and list of sales; no other paper to my knowledge at my house.

Question. What was done with the inventory and list of sales?

Answer. It was put among the archives.

Question. By whom was that inventory and list of sales made out?

Answer. By Charles Tayan, who was appointed subroge tuteur.

Question. Who was the executor or administrator of Louis Chancellier?

Answer. I was appointed by the commandant, Mr. Cruzat; I was appointed guardian of my child, and Charles Tayan was appointed subroge tuteur.

Question. Were there any children of your marriage with Louis Chancellier?

Answer. Yes, two.

Question. Did they either survive Louis Chancellier; if so, which?

Answer. The daughter died before Louis Chancellier, and the son lived till within 12 years.

Question. Did the son leave any family?

Answer. Yes, sir.

Question. What did that family consist of, any children?

Answer. Yes, he left two boys and five daughters.

Question. Are any of the children of your son still living?

Answer. Yes, they are all living.

Question. How do you know that Louis Chancellier, in his lifetime, cultivated said arpent and a half of land?

Answer. I know it because I was with him; I lived near Gabriel Cerre's; I know it myself.

Question. Did you ever see him cultivate the said land?

Answer. Yes, sir, so much so that I often had to hitch the horse in the gig, and take his meals to him. I would not come here with a lie in my mouth at my age.

Question. How do you know that the arpent and a half which you saw your husband cultivate, was bounded on the north by Bijou, and on the south by Becquet?

Answer. Because I was told so by my husband, I did not go on it and measure; if you wish to know the truth about it, you can go and find him; I can say nothing but what he told me.

Question. How do you know that Joseph Beauchamp gave permission to St. Cyr to work that land?

Answer. Because he told me so, Beauchamp told me so; I was not along with him when he gave him permission.

Question. Was any person present and within hearing when Mr. Chouteau offered you two hundred dollars for the land; if so, who was it?

Answer. None but my niece, Madame Seraphin, and Mr. Leduc, was by; and if Mr. Leduc is honest, he can state what Mr. Chouteau offered me.

Question. Was any person present and within hearing when you had the conversation with him, Mr. Chouteau, at his house; if so, who was it?

Answer. No, sir, as my gig was waiting when I addressed Mr. Chouteau, I did not even take a seat; there was no one present; I saw him under his piazza.

Question. Did not you, on that occasion, tell Mr. Chouteau that he might expect to find your claims in the hands of a lawyer to be prosecuted?

Answer. Without any doubt I did tell him so.

Question. Did you not say, in a former part of your testimony, that you had found persons to prosecute your claim?

Answer. Yes, sir, I can offer you proofs for it.

Question. Who are the persons that have undertaken to prosecute your claims for you?

Answer. Mr. Charles Hempstead, who wrote to me; then Mr. John Heath called on me, and offered his services to prosecute my case; there was limited time of ten months, in which he was to recover the property.

Question. Have you made a bargain with any body else to recover the property for you?

Answer. No, sir; there were some people came to me, but I had no confidence in them, and I did nothing.

Question. Have you not made some bargain with Col. Strother, in relation to said arpent and a half of land?

Answer. Yes, sir, it is in him I put all my trust.

Question. What is the contract between you and Col. Strother?

Answer. My bargain with Col. Strother was, that he was to give me three hundred dollars; $150 to be paid in May last, and $150 was paid in May, 1827.

Question. Are you to get no more?

Answer. No, sir; I had rather make a sacrifice in the way I did; I wish he may make four thousand dollars on it, with all my heart.

Question. Is the contract with Mr. Heath in writing?

Answer. It was in writing, and he kept all in his hands.

Question. Have you sold said land to anybody?

Answer. No, sir, I have sold it to nobody; I could not be such a wretch.

Question. Did you not sell it to Col. George F. Strother, of St. Louis?

Answer. Yes.

Question. Did you ever sell to Col. George F. Strother any other land?

Answer. No, sir; I had entered into a bargain with him as to some other land; I observed to Col. Lawless last year, that it was very probable I would contract with Col. Strother for other land.

MARIE LOUISE × LAROQUE.

Sworn to and subscribed before me, this 15th August, 1828.

J. SPALDING, *Comm'r, &c.*

But on the reading of the deposition of the said last mentioned person, Madame Laroque, so much thereof as is stated by her on hearsay was, by consent of parties, withdrawn from the jury.

And said plaintiff further read in evidence, by consent of parties, the depositions following:

[*Deposition of Pierre Baribeau.*]

Pierre Baribeau, of lawful age, being produced on the part of the defendant, and by me carefully examined, cautioned, and sworn to testify the whole truth, on his oath, says, as follows:

Question by defendant. How old are you, and how long since you first came to St. Louis?

Answer. I am aged, I believe, sixty-eight years, having been born in the year 1759; I came to St. Louis in the spring of 1789.

Question by defendant. Do you know whether there was at that time a common enclosed at St. Louis?

Answer. There was the fence of the common which runs on the hill.

Question. Do you know of any land being cultivated and sown, being west of that fence and adjoining the same?

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Answer. They started from the fence, and used to go from thence westwardly.

Question. Did you know or not of any land next to that fence being cultivated by Hyacinth St. Cyr?

Answer. I have seen Mr. St. Cyr plough, sow, and reap on the land; I did not work there myself, but I saw it done.

Question. Describe, if you can, the situation of that land by the names of the reputed owners of the land north and south of it?

Answer. On the north was the land of Madame Bijou, and on the south the land of Mr. Becquet.

Question. Was Madame Bijou and Madame Bissonet the same person?

Answer. No, they were of the same family, but one was married to Bijou, and the other to Bissonet.

Question. Did you know Francois Bissonet and Louis Bissonet?

Answer. They were dead when I came to the country; but I was acquainted with their wives.

Question. Did you know the children of Madame Bijou?

Answer. Yes, I knew them; one of them is Madame Paul Primo, and the boys are up the Missouri.

Question. How many arpents are there between the St. Charles road and the land which you have described as being the reputed property of Mr. St. Cyr?

Answer. There was the land of Marie and of Madame Bijou in those times, but I do not know the quantity.

Question. Does the present road to St. Charles run as it did at that time aforesaid?

Answer. No; at that time the road went north of the American church; the gate was opposite to the street that goes by my house.

Question. Which street do you mean, for there are two going by your house?

Answer. The street that runs between Col. Benton and me.

Question. In what direction was that street?

Answer. It goes in the same direction as the lands did towards the west.

Question. How many arpents wide did Mr. St. Cyr sow and cultivate?

Answer. Two arpents.

Question. Was Mr. St. Cyr cultivating those two arpents when you arrived in this country?

Answer. In the first year I was not acquainted, and therefore cannot say; but I know he did the second year.

Question. How long did St. Cyr continue to cultivate that land?

Answer. I have seen him do it several years, and think he continued to do so until the fences were abandoned.

Question. Did you know a marsh somewhere on that land of St. Cyr?

Answer. Yes, the fence went through it.

Question. What fence?

Answer. The fence of the common.

Question. Do you know whether Mr. St. Cyr made that fence?

Answer. Yes, he made the fence.

Question. By what name was the said marsh generally known?

Answer. In my time, it was called St. Cyr marsh, because it was at the end of his land; I never knew any other name.

Question. Since the fence of the common has been abandoned, has any

part of the said two arpents of St. Cyr been enclosed or cultivated; and if so, by whom?

Answer. Yes, I have seen a part of it enclosed and cultivated by Mr. Lucas, and by nobody else.

Question. Is it enclosed at this day?

Answer. It is in Mr. Lucas's enclosure.

Question. Do you mean the whole or part of it?

Answer. The whole width is enclosed, but not the whole length.

Question. Have you generally resided in St. Louis since you came to this country?

Answer. I have generally resided in St. Louis; I went once to the mouth of the Missouri for Mr. Soulard, and several times to St. Charles; I have never resided anywhere but in St. Louis.

Question. Do you know whether there was any regulation by the commandant or syndic, for the purpose of compelling all the holders of land to keep up their share of the common fence?

Answer. Yes, there was a regulation that everybody should make their share of the fence; if any one was delinquent, the syndic ordered his share of the fence to be made at his (the delinquent's) expense.

Question. When the holders of land did not live in St. Louis, how did the syndic proceed to make them pay their share?

Answer. If the person was on a journey, the syndic would make him pay at his return, otherwise he would give the land to another person, who would make the share of the fence.

Question. Did you know the widow, Louis Chancellier; and if so, where did she reside when you first knew her?

Answer. No, she was not in the country when I came.

Question. What do you mean by country?

Answer. I mean St. Louis.

Question. Do you know whether she lived in St. Charles?

Answer. I heard it said that she lived in St. Charles, but I never saw her, or, if I did, I did not know her; I am not acquainted with her.

Question. Were these lands adjoining St. Louis deemed to be of great value in the times of the Spanish government; I mean the plough lands?

Answer. No, they were considered as of no account.

Question. Did or did not the inhabitants of this country make transfers of property verbally?

Answer. Yes, they used to make such bargains verbally; they used to make them in writing when the things were of consequence; when they wanted lands to be conceded, the commandant would do it in writing; but, being illiterate, I was not well acquainted with the bargains the people made among themselves.

Question. In former times, did or did not the people trust pretty much in their word and honor?

Answer. Some confided, others did not at that time; some used to confide in their word and honor; there were few people; it was not as it is now.

Cross-examined by plaintiff's counsel.

Question by plaintiff. I understand you to say that said marsh was called St. Cyr marsh, because it was at the end of St. Cyr's land or at the fence; did you say so?

Answer. The fence went across the marsh.

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Question. State as near as possible where that fence crossed the marsh, with a reference to objects known to you now?

Answer Things are so much altered since that, I cannot tell exactly; the marsh was a small one; the fence might have been a few feet one way or the other in the marsh, but it did go in it.

Question. Are you acquainted with the eastern line of said forty arpent lots as originally surveyed?

Answer. I do not know exactly where the line was surveyed, but understood that the fence was further back than the line, to give the cattle more room to graze.

Question. If you were to go on the ground now, could you point out the place where the fence crossed the marsh within the eastern line as surveyed?

Answer. I could tell about the place, but not point exactly to it.

Question. Do you know the Presbyterian church, the situation of it?

Answer. No; I know the American church, but do not know the sect.

Question. Do you know a brick church west of the present residence of Mr. Strother?

Answer. Yes; the American church.

Question. Did the fence, where it crossed the marsh, pass east or west of that church?

Answer. I believe that the fence passed west of that church; where it crossed the marsh I cannot say exactly.

Same witness examined by defendant again.

Question by defendant. What is the relative situation of the marsh, with respect to the said church? is it south, north, or southeast?

Answer. I believe the church is more towards the northeast, as far as I can recollect.

his
PIERRE × BARIBEAU.
mark.

Sworn to and subscribed before me, this 18th of October, 1827.

J. SPALDING, *Commissioner, &c.*

[*Deposition of Helen Hebert St. Cyr.*]

Helen Hebert St. Cyr, produced by said defendant, being examined, cautioned, and sworn as aforesaid, deposes as follows, viz.

Question. Where were you born?

Answer. Here in St Louis.

Question. How long have you resided here?

Answer. I have resided in St. Louis until Mr. Wilkinson built the camp at Bell Fontaine, and then removed to my plantation.

Question. Where is that plantation?

Answer. It is south of Hebert's creek, about seven miles from St. Louis.

Question. Do you remember having seen the common of St. Louis fenced in?

Answer. Yes, sir; we used to enclose it to prevent cattle from going into our land.

Question. Did you know whether St. Cyr had any land at the west of the fence of the common in the prairie?

Answer. Yes, sir; he had two arpents; I have never been upon it, but that is the place where he cultivated.

Question. How long were those two arpents cultivated by St. Cyr?

Answer. Until the day of his sale, then Mr. Chouteau had it.

Question. Did you understand that Mr. St. Cyr held those two arpents as his own?

Answer. Yes, sir; since he had them from Mr. Kercereau and Mr. Gamache, and kept up the fence.

Are not those deeds found among the records?

I always understood from Mr. St. Cyr that he had purchased them from Kercereau and Gamache.

Cross-examined.

Question by plaintiff's counsel. Were you acquainted with Mr. Kercereau?

Answer. I knew him very well.

Question. Is he alive or dead; and if dead, when did he die?

Answer. He died in Florisant; I cannot tell the time; it may be found on the register.

Question. When did Kercereau remove from St. Louis to Florisant?

Answer He died in Florisant a little while after his removal, at the house of one of his sisters, Madame Deketue.

Question. Do you recollect the year of his death?

Answer. No, sir; I cannot tell.

Question. Were you acquainted with the Gamache of whom you speak?

Answer. Yes.

Question. Did you know that either Kercereau or Gamache cultivated or possessed the said two arpents or either of them, and when?

Answer. I do not know; I have not seen it.

Question. Do you know whether at any time your husband was permitted by the syndic, or by any other authority, to take possession of said two arpents and cultivate them?

Answer. He had the permission of the syndic; you know it was customary then; he first cultivated, and afterwards had his deeds of sale from Kercereau and Gamache, as he told me himself.

Question. Did your husband become bankrupt, and at what time?

Answer. Yes, sir; it might be 26 years ago, as well as I recollect; but it was in the year of the smallpox.

Question How long before the bankruptcy of your husband was it when your husband told you that he had those deeds from Kercereau and Gamache?

Answer. A very long time before, but I do not recollect.

Question. Do you recollect the time when the fence spoken of fell down?

Answer. It fell after the Americans had taken possession. When I started to go to my plantation my pickets were standing there yet.

Question. How long after the sale to Mr. Chouteau, of which you have spoken, did you go to the plantation to live?

Answer. As soon as the sale was over I started to my plantation.

Question. Do you mean, when you say started to your plantation, that you went there to live?

Answer. When I started to my plantation I went there to live; all my hands were there; it was some time afterwards when my husband came there to join me.

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Question. How do you know that the fence fell after the Americans took possession? was it of your own knowledge or from hearsay?

Answer. I did not see it, and I was not told; the land was no longer ours, and I did not take any further notice of that.

Question. When you said above that the pickets were remaining, did you mean the pickets about the said two arpents, or the pickets about the whole common?

Answer. I mean those of the two arpents that were made of mulberry; they were standing when the sale took place; when I went to the farm I did not look.

Question. Do you mean that the fence was standing, or only the pickets?

Answer. I said already that the fence was of upright posts, in a little marsh, and that the pickets were standing up at the time of the sale.

Question. At the time of the sale did you see that fence?

Answer. I did not go to see whether the posts were up, but as grains were kept there, and work done there, it is probable that they were up then.

Question. Was the fence enclosing the common then generally up, or do you mean only that part in front of your husband's two arpents?

Answer. These gentlemen may well think I did not go round to look at it.

Question. Do you or not know whether the general fence was standing at that time?

Answer. Did not I tell him.

Question. Did you ever see those deeds from Kercereau and Gamache spoken of?

Answer. I have never seen them, but my husband told me he had purchased from them.

RENE ST. CYR.

Sworn to and subscribed before me, this 19th October, 1827.

J. SPALDING, *Commissioner, &c.*

And plaintiff, by consent, further read in evidence the following depositions, to wit:

[*Deposition of Joseph V. Garnier.*]

Joseph V. Garnier, being cautioned, and examined, and sworn as aforesaid, on his oath, saith as follows:

Question. Look at the document shown to you, purporting to be a copy of record of the public sale of the property of Louis Chancellier, after his death, marked on the back E, No. 5, and endorsed twice by "J. Spalding," with his signature, and state whether you examined the original record of which that is a copy.

Answer. I did examine this paper with the original this morning, at the request of Col. Lawless.

Question. Were the words "Jacinto Sancir" and "Auguste Chouteau," which are on the margin of this document, on the margin of the original in the corresponding places?

Answer. Yes, sir.

Question. In whose handwriting are those signatures on the original?

Answer. The signature of Auguste Chouteau is in the handwriting of Auguste Chouteau, sen., lately deceased; the signature of the other I cannot tell who made; it was a mark.

Question. Whose mark or cross does it purport to be?

Answer. That of Hyacinth St. Cyr.

Question. Were you acquainted with Hyacinth St. Cyr?

Answer. I was, sir.

Question. Did you ever know of more than one Hyacinth St. Cyr in this country?

Answer. No, sir.

Question. Do you know whether said St. Cyr knew how to write?

Answer. I never saw him write; I have seen him make his mark.

Question. Is he dead or alive?

Answer. He is dead; I understood he is dead; I did not see him die; I knew him at first in 1805, the year I first came to the country.

Question. Do you know him to have ever signed his name?

Answer. I never did.

Question. Is it your belief that he could sign his name or not?

Answer. I believe he could not write; he made his mark; about a year before he died he took the benefit of the insolvent laws, and made his mark.

Cross-examined.

Question by defendant. Did he ever tell you that he could not write?

Answer. I handed him the pen to write, and he told me he could not, and made his mark.

Question. Can you translate Spanish, or do you understand it?

Answer. I examined that item to which said signatures are affixed; I understand a little Spanish.

Question. Is said document a copy of the whole instrument, or an extract?

Answer. I believe it is a correct copy from the beginning down to that item where said signatures are; I did not examine farther; that item is the sale of a negro, Fidel, purchased by St. Cyr, with said Chouteau as security.

Question. Did you compare all that precedes that item with the original?

Answer. Pretty near, as far as I could.

Question. Do you know that the original does not contain more than this document?

Answer. No, I do not.

In chief again.

Question by plaintiff's counsel. (Objected to by defendant.) Do you know in what language said original record, which you examined, was?

Answer. It was in the Spanish language.

Question. What did that record purport to be? (Objected to.)

Answer. A sale of the property of Louis Chancellier.

J. V. GARNIER.

Sworn to and subscribed before me, this 1st August, 1829.

J. SPALDING, *Commissioner, &c.*

[*Deposition of Pierre Chouteau, senior.*]

Pierre Chouteau, sen., of lawful age, being by me examined, cautioned, and sworn as aforesaid, on his oath, deposes as follows:

Question by defendant. Did you know Louis Chancellier?

Answer. Yes, sir.

Question. Where did he reside when you knew him? and how long did he reside there?

Answer. He lived where Gov. Clark now lives, in St. Louis.

Question. How long did you know him to reside in St. Louis?

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Answer. About 40 years in the place where he did live; but it is a long time since he is dead; I knew him to live there from the year '66 till his death in 1788 or '9.

Question. Were the inhabitants of St. Louis generally acquainted with each other at that time?

Answer. Yes; they all knew each other.

Question. Do you know, of your own knowledge, that Louis Chancellier was acquainted with Rene Kercereau and his wife?

Answer. Yes, sir.

Question. Did you know said Kercereau?

Answer. Yes; he was the uncle of my wife.

Question. Did you ever see Rene Kercereau write his name?

Answer. Yes, sir.

Question. Did you know his signature?

Answer. Yes, sir.

Question by defendant. Did you know a man named Baptiste Gamache?

Answer. Yes, sir.

Question. How many years ago did you know him?

Answer. Fifty-four or fifty-five years ago.

Question. By what christian name was he called?

Answer. He was not known by any other name than Gamache, as he was the only one in town; but on the livre terrien, his name will be found Baptiste.

Question. Did you ever hear him called John Baptiste?

Answer. No, sir; I said formerly John Baptiste, because the Canadians make the name Baptiste follow John commonly; but since, I seen his name on the livre terrien; I never knew him but as Baptiste Gamache.

Question. Did you ever know a man named Beauchamp?

Answer. Yes, sir.

Question. Was he married, and to whom?

Answer. He was married, and to Madame Chancellier, the widow of Louis Chancellier.

Question. What was Beauchamp's business?

Answer. He was hired by me in Canada, and I had him six or seven years in my employ at St. Louis; after which he married the said Louis Chancellier's widow.

Question. In what capacity did you employ him.

Answer. As a common hand, to do any thing; I sent him to any place I thought proper, to Mackinaw and to New Orleans.

Question. What were his circumstances and property?

Answer. I did not know he had any property.

Question. What business did he follow after he was married?

Answer. I do not know; he went to St. Charles after he was married?

Question. Is said Beauchamp dead or alive?

Answer. He is dead.

Question. At what time did he die?

Answer. I do not know; ten or fifteen years ago.

Question. Did he leave property, or die poor?

Answer. I do not know; I did not live in St. Charles; I do not believe he left any.

Question. Did the inhabitants of St. Louis and St. Charles live in intimacy at that time?

Answer. Certainly, sir.

Question. Were they generally acquainted with each other, and with the events passing in the two villages?

Answer. They knew each other very well, but did not the occurrences happening to each other.

Question. Do you know whether the failure of St. Cyr was generally known at the time?

Answer. Yes; it was known every where?

Question. Was the sale of his property at the church door generally known?

Answer. The failure of Mr. St. Cyr was known and published, so that the creditors of Kaskia and St. Genevieve knew it so as to be here at the sale of his property.

Question. Do you know whether the board of commissioners for adjusting land titles ever sat at St. Charles?

Answer. I do not know, but believe it always sat at St. Louis?

Question. Did you know Laroque?

Answer. Yes, sir.

Question. Do you know whether he is dead or alive?

Answer. I don't know.

Question. Was he married, and to whom?

Answer. He was married to widow Chancellier, afterwards widow Beauchamp.

Question. Was he a man of property?

Answer. I do not know.

Question. What was his business and means of living?

Answer. I never knew him personally; only I knew of his having got married; and that he was a blacksmith.

Question. What is your christian name?

Answer. Pierre.

Question. Have you any other name besides Pierre?

Answer. Yes; I have had the name of John Pierre, but I have never been known but as Pierre, and have never signed my name in any other way.

Question. Is your name in the registers of baptisms John Pierre?

Answer. Yes.

Cross-examined.

Question by plaintiff's counsel. When did you see Gamache's name on the livre terrien? was it since your last examination?

Answer. I do not know whether it is Paul, or Pierre, or John Baptiste Gamache on the livre terrien, but that in the sales he has made he has signed Baptiste Gamache, and it is the way in which his name is to be.

Question. Do you know where this Gamache died?

Answer. He died in Vinde Poche.

Question. Do you know where he was buried?

Answer. No.

Question. How do you know he died in Vinde Poche?

Answer. I heard it said so.

Question. Were you in St. Louis when Gamache died in Vinde Poche?

Answer. No, sir.

Question. Where were you?

Answer. Among the Osages.

Question. Do you know of any grant made by the Spanish government to said Gamache of one arpent by forty?

Answer. Yes.

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Question. Where was it?

Answer. In the little prairie behind the town.

Question. Were you here when the 40 arpent lots were surveyed behind the town?

Answer. Yes, sir.

Question. Was Baptiste Gamache's 40 arpent lot surveyed at that time with the rest?

Answer. Yes, sir; they were all surveyed at the same time.

Question. Who surveyed them? who was employed by the government?

Answer. Martin Duralde.

Question. Are you sure his name was Martin?

Answer. I am not sure; it is either Milaney or Martin.

Question. Did he generally sign his name "M. Duralde?"

Answer. Yes he did; meaning Martin or Milaney.

Question by plaintiff's counsel. Was there any other Duralde besides the one who made the surveys in the country?

Answer. There was not.

Question. Were you well acquainted with Mr. Duralde?

Answer. I knew him very well.

Question. How long did said Duralde remain in the country after he made the surveys?

Answer. Eight or ten years.

Question. Look at the document now shown you, purporting to be a sale and exchange by John Baptiste Gamache to Louis Chancellier, dated the 29th January, 1773, endorsed with the signature of "J. Spalding," and state if you know the signatures to the same.

Answer. The signature "Piernas" is the handwriting of said "Piernas;" the signature "M. Duralde" is in the handwriting of said "Duralde," whose name I now recollect was "Martin Milaney Duralde;" the signatures "Louis Chancellier" and "Eugenio Alvarez," I do not know.

Question. Is that the Duralde who made the surveys?

Answer. Yes.

Question. Do you know of any arpents on the hill granted to any other man of the name of Gamache?

Answer. No.

Question. Do you know of any other Gamache to whom land was granted?

Answer. No; I know of no other.

Question. Did you never know any man in this country named Joseph Gamache?

Answer. I have never known any person of that name.

Question. Look at the instrument now shown you, purporting to be deed of conveyance of one arpent by forty, situated in the first prairie next to the town of St. Louis, bounded on one side by John Baptiste Bequite, and on the other by John Baptiste Gamache, dated 6th April, 1781, and state whether he knows the signature "Franco Cruzat;" and if so, whose it is.

Answer. I know said signature; and it is the signature of Francisco Cruzat.

Question. Who was Francisco Cruzat?

Answer. He was commandant.

Question. Look at the signature "Louis Chancellier," on the same deed, and say if you know it?

Answer. I do not know it, because I never saw him sign.

Question. What is your belief as to that signature? is it the signature of said Chancellier or not?

Answer. I do not know any thing about it; and I know of Mr. Chancellier being able to write, but I have never seen him sign his name.

Question. Is it like other signatures of his?

Answer. I have never seen his signature except those two shown me here to-day, therefore I cannot judge of his signature.

Question. Were you acquainted with a man in this country by the name of Robert?

Answer. Yes.

Question. From your knowledge of the manner of writing the Spanish language in the country, did they, in writing French words in which the letter '*b*' occurs in the middle of the word, use the letter '*v*?'

Answer. I do not know any thing of that; they generally wrote the names as they were given to them.

Question. Are you acquainted with the Spanish language?

Answer. No, sir.

Question. Where did this Louis Robert live in the month of April, 1781? was he then in St. Louis?

Answer. I do not know exactly when he was there; I knew of his having lived in Vinde Poche, on the Merrimack, and in St. Louis a long time.

Question. Was there such a man as Louis Rover ever living in St. Louis?

Answer. No, sir.

Question. Would you have known him had he lived in St. Louis then?

Answer. Yes; I believe I should have known him.

Question. Look at said last described instrument, and say whether you know the signature "Mari Reneux," and say whether you know it.

Answer. I never knew the signature; never seen her sign.

Question. What was the name of Rene Kercereau's wife?

Answer. I was very young, and do not know the name of Mrs. Kercereau, but knew her person well, and that she was the wife of Rene Kercereau.

Question. Was not Rene Kercereau generally called "Reneau?"

Answer. Yes; they gave him the nickname of Reneau, as they would Jacques, Jaqueau.

Question. Did you ever hear that the maiden name of Mrs. Kercereau before she was married was Robillar?

Answer. No, sir; I was an infant, perhaps not born, when they got married.

Question. Was Mrs. Kercereau alive when you got married?

Answer. No, sir.

Question. Was there any other Rene Kercereau in the country, except the one mentioned?

Answer. No; there was then no other Rene, but there was Paul, my father-in-law.

Question. When did said Rene Kercereau die?

Answer. He died in Florisant nearly twenty years ago.

Question. Did Rene Kercereau ever occupy the office of chantre in the catholic church here? and how many years?

Answer. Yes; he came here in 1766 or '7, and was chantre the whole time, till three or four years previous to his death.

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Question. Look at the signature commencing "Rene," upon the deed last described above, and say whether you know that to be the signature of Rene Kercereau, the chantre, of whom you speak.

Answer. No; his name was Rene Kersereau; and not knowing how to write, he never formed his letters in the same manner; upon the book of baptisms, where he has frequently signed his name, it is shaped in different ways, that is, the letters are formed differently.

Question. Did he, in the capacity of chantre, sign the register of interments?

Answer. I believe he did; when he did the burying himself he signed as it is generally done.

Question. Did said Rene Kersereau ever have a grant of one arpent by forty on the hill near the grant to said Gamache?

Answer. Yes, he had one; I knew him to have a tract of forty arpents in the little prairie.

Question. Do you know how it was bounded?

Answer. No.

Question. Do you that Rene Kersereau ever cultivated any land near St Louis?

Answer. Yes.

Question. Where was that land, when was it cultivated, and when did said cultivation cease?

Answer. I do not know where it was situate; he had a barn on the hill, in which he put his wheat which was raised in the little prairie; but I do not know the spot.

Question. Do you recollect the annee du coup?

Answer. Yes.

Question. What year was it?

Answer. In '80, the 25th of May.

Question. Was Rene Kersereau cultivating his land at that time?

Answer. I do not believe he was.

Question. Did you know him to cultivate any land since then?

Answer. No.

Question. Did said Kersereau reside at your house any length of time?

Answer. Yes; seven or eight years, more or less.

Question. Did he go from your house to reside in Florisant?

Answer. Yes.

Question. Did he stay in Florisant till he died?

Answer. Yes.

Question. When did the fence in front of the forty arpent field lots fall down?

Answer. No; I was not here; I was among the Osages.

Question. When did you return from the Osages?

Answer. Twenty-four years ago.

Question. Was that fence up in 1800?

Answer. In '96, '7, or '8, it was destroyed, because at "l'annee du coup" there was no fence, and St. Louis was surrounded by a fort.

Question. Was there any fence running east and west, dividing the common field lots from each other?

Answer. No; there was not.

Question. Was there any fence running north and south on the west as well as on the east?

Answer. It was running north and south on the east; there was none on the west.

Question. Do you know Mad. Vincent of St. Louis?

Answer. Yes; very well.

Question. What relation does she bear to Rene Kersereau?

Answer. His granddaughter.

Question. Do you recollect the marriage of Mrs. Vincent Bovis aforesaid?

Answer. Yes; near about.

Question. Do you know whether Rene Kersereau was present at her marriage?

Answer. I believe he was, being alive, and the grandfather.

Question. Do you know whether Baptiste Gamache cultivated that land granted to him in St. Louis?

Answer. Yes; I knew him to cultivate.

Question. Was said Gamache present when the survey of his land was made?

Answer. I believe he was there as much so as any of the rest, because the names were called as they surveyed the said land.

Question. Do you know whether said Gamache was acquainted with said Duralde?

Answer. He knew him as an inhabitant of the place.

Question. When did said Gamache leave St. Louis?

Answer. I do not know; he left St. Louis to go to Vinde Pasche?

Question. Was he living in St. Louis at l'annee du coup?

Answer. I believe so.

Question. Do you recollect about the time he left St. Louis?

Answer. No; I was very little in St. Louis, only about two months every year during 32 years.

In chief again.

Question by defendant. Did you ever see Rene Kercereau write his name in the register of baptisms and interments of which you have spoken?

Answer. Yes, I have, because I have been present at some marriages where he had to sign his name.

Question. Do you recollect any particular instances?

Answer. No; I have only seen him sign his name along with others, and I never took any notice of it.

Question. Do you know of any person now living besides himself, who, in 1781, was residing in St. Louis, and old enough to be acquainted with Rene Kersereau and his handwriting?

Answer. I know of none.

Question. Were you well acquainted with Rene Kercereau's handwriting?

Answer. No; but I knew his having signed his name in different shaped letters, but he signed "*Kiersereau*," but not "*Kersereau.*"

PIERRE CHOUTEAU.

Sworn to and sucscribed before me, this 1st August, 1829.

J. SPALDING, *Commissioner, &c.*

And plaintiff further read in evidence the following depositions, to wit:

[*Deposition of Edmund Saulnier.*]

Edmund Saulnier, being produced on behalf of said plaintiff, and by me carefully examined, cautioned, and sworn to testify the whole truth, on his

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oath, deposeth and saith: That the paper now shown to this deponent, marked on the back "No. 4, J. Spalding," and signed "J. Bte. Truteau, chantre," is a true extract from the register of burials of the parish of St. Louis, made by this deponent, which extract is certified as correct by this deponent.

Cross-examined.

Question by defendant. In whose handwriting is the original from which the extract is taken?

Answer. Of John Baptiste Truteau.

Question. How do you know that to be his handwriting?

Answer. I know the man; but I have never seen him write; he is dead now.

Question. Was there no writing in the margin of the register aforesaid, opposite to the original of which this is an extract?

Answer. In the margin, opposite to said original, was the words "Sept., Baptiste Gamache," by abbreviation; I did not copy it, because I did not think it important.

Question. By abbreviation do you mean the word "Sept." or the name?

Answer. I mean the word only "Sept." not the name; the name Baptiste Gamache is written at length, but I am not sure of the word for sepulture, whether it is at length or an abbreviation; I think it is an abbreviation as above.

Question. Was the writing in the margin in the same handwriting as the body of the register?

Answer. It seems so, but I cannot be certain.

EDM. SAULNIER.

Sworn to and subscribed before me, this 25th August, 1828.

J. SPALDING, *Commissioner, &c.*

[*Deposition of Joseph V. Garnier.*]

Joseph V. Garnier, produced on behalf of said plaintiff, being by me carefully examined, cautioned, and sworn to tell the whole truth, on his oath, saith:

Question by plaintiff's counsel. Did you or did you not see the signature of Mr. Auguste Chouteau, senior, of St. Louis, upon a certain document or record in the Spanish language, now remaining in the office of the clerk of the circuit court of St. Louis county, which document was handed by the deputy clerk of the circuit court to you for inspection? if so, state, and what the document was, what signatures you saw thereon, and when it was.

Answer. On Saturday last, at the request of Col. Lawless, I went up to the clerk's office with him; being there, a paper, purporting to be a sale of the property of the estate of Louis Chancellier, was handed to me by Peter Ferguson, deputy clerk, which paper was dated 12th June, 1785; the first item was for a negro man named Fidel, sold to Mr. St. Cyr for 2,100 livres, and was signed in the margin Auguste Chouteau, in the proper handwriting of said Chouteau, as I believe.

Question. Are you quite sure that that was the first item?

Answer. Yes; I am sure that that was the first item.

Question. Have you seen Sur. Chouteau write?

Answer. Yes; I have seen him write; I judge from having seen him write, and from having seen his handwriting.

Question. Were you acquainted with Mr. Hyacinth St. Cyr?

Answer. I was, sir.

Question. Did he know how to sign his name?

Answer. I do not think he did; I have seen men who did not know how to write, who could make characters answering to their names?

Question. Did you ever know him to sign or attempt to sign his name?

Answer. I never did.

Question. Is he dead or alive?

Answer. I believe he is dead, though I did not see him dead; but I understood he was dead.

Question. Did you ever hear of or know any other man by the name of Hyacinth St. Cyr in this country?

Answer. I did not, sir.

Question. How long have you been in this country?

Answer. Twenty-three years from the 5th of this month.

Question. Did you make any searches in the office of Mr. Hunt, recorder of land titles?

Answer. I did this day; I sought for a concession from the Spanish authorities to John Baptiste Gamache, for 40 arpents of land; likewise for a concession from the same authority to one Rene Kersereau; and also for a concession from the same authority to one Joseph Gamache; the result of which was, I found no concession in the name of John Baptiste Gamache, but found two memorandums of surveys made, one for Rene Kersereau, and the other Joseph Gamache. In the margin of the survey for Joseph Gamache, I found this, viz. at the top, in the margin "1793, St. Sire," and below, in the margin "le dit Gamache se nomme Baptiste au lieu de Joseph," which, interpreted in English, is, "the said Gamache is called Baptiste instead of Joseph." In the margin of the survey to Rene Kersereau, were found the said figures "1793, St. Sire."

Question. Did you find a concession to Rene Kersereau?

Answer. I did not.

Question. Did you any to Joseph Gamache?

Answer. None sir.

Question. Did you or did you not ask for a certificate of the non-existence of such concessions?

Answer. I did; and the recorder remarked the notice was too short, that he had not time to search, and therefore could not certify.

Question. Did he say he required any particular time to certify?

Answer. He said he required a reasonable time to make the search, in order to enable him to certify.

Question. Did you make similar searches in the clerk's office of the circuit court?

Answer. I did; I looked for a deed from Rene Kersereau to Louis Chancellier; I found no such deed.

Cross-examined.

Question by defendant's counsel. Do you testify in relation to your going to said recorder's office and said clerk's office, and your proceedings there, from memory or from a written memorandum?

Answer. Mostly from this written memorandum, but partly from memory.

Question. Was that memorandum made by you or by some other person; and if by another person, by whom?

Answer. The body of the memorandum was handed to me by Col. Lawless; the marginal notes and at the bottom are in my handwriting.

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Question. Was the memorandum made before or after you went to the office?

Answer. It was handed to me before I went to the office.

Question. Did you go thither voluntarily, or were you employed?

Answer. I was employed by Col. Lawless to go, who put this paper into my hand.

Question. How long have you been familiar with the handwriting of said Auguste Chouteau?

Answer. Almost ever since I came to the country.

Question. Is his signature the same now it was then?

Answer. I do not see much difference; I have not seen him write within two or three years.

Question. Is not his signature easily imitated, so as not to be distinguished from the genuine?

Answer. I believe it is, sir.

Question. Have you not seen many imitations of it within a few years?

Answer. I have seen one or two.

Question. Were you very intimate with Mr. St. Cyr?

Answer. Not very intimate.

Question. Do you know certainly that he could not write his name?

Answer. I know it only from his declarations before me; he was sworn once or twice before me, and made his mark; I cannot state when this was, but about 4 or 5 years ago.

Question. Was not Mr. St. Cyr very old when he made his mark before you?

Answer. He was old, but whether he was very old I do not know; he was a very active man.

Question. Are you well acquainted with what you called, in your testimony above, memorandums of surveys?

Answer. I have seen them several times.

Question. Did you see them while you were clerk of the board of commissioners often?

Answer. I did, sir.

Question. What was the style or name of the book?

Answer. The cover is now covered over, and is endorsed, as it was then, as well as I recellect, "*Livre Terrien.*"

Question. Are you acquainted with the handwriting of the late Jacques Clamargan?

Answer. I was, sir.

Question. Did you see any marginal notes in his handwriting on said livre terrien?

Answer. I have seen some of them, but to what claims they applied I do not know.

Question. Do you know in whose handwriting the words previously mentioned by you, as being in the margin, are?

Answer. I do not know; I do not think they are in Clamargan's handwriting; my impression is, that they do not look like Clamargan's handwriting.

J. V. GARNIER.

Sworn to and subscribed before me, this 25th August, 1828.

J. SPALDING, *Commissioner, &c.*

The plaintiff also offered in evidence the following depositions:

[*Deposition of Joseph V. Garnier.*]

Joseph V. Garnier, of lawful age, being by me examined, cautioned, and sworn to testify the whole truth, on his oath, deposeth as follows:

Question by plaintiff's counsel. Look at the instrument, a paper writing now shown to you, which instrument is endorsed as follows, "327 obligacion de writre de Maria Royillar a favor de Dn. Sr. Selier del 6 de Abril, de 1781," and state whether you have compared any and what handwriting or signature at the foot thereof with any other handwriting or signature.

Answer. The signature to this deed, purporting to be Rene Kersereau, I have compared with other signatures purporting to be of the same person in the records of marriages and burials kept at the catholic church in St. Louis; and my impression is that they are the same handwriting, though there are some small variations in the manner of signing.

Question. In what capacity was said signature made in the register of burials?

Answer. In the capacity of chantre: it was signed there.

Question. Do you know what the nature of that office is?

Answer. I believe he gives out the tune.

Question. Had you said deed with you at the time you compared said signature, or was it from memory that you compared them?

Answer. The deed was shown me at the time by Col. Lawless.

Question. Were you acquainted with a man called Rene Kersereau in this country?

Answer. I was not.

Question. Do you know how long ago he died?

Answer. I do not.

Question. How long have you been in this country?

Answer. Twenty-three years and upwards, going on twenty-four.

Question. Was Rene Kersereau, who signs as chantre, then dead or alive when you came to the country?

Answer. I never knew any thing of Mr. Kersereau; when I first came to this country I lived in a family connected with him, who told me he was dead; I heard that there had been such a man, and that he was dead.

Question. From your knowledge of the old French inhabitants of this country, do you know whether they could generally write? (Objected to by defendant.)

Answer. From what I saw, when I first came to this country, of certain petitions, purporting to be signed by the ancient inhabitants, in which the signatures were nearly all marks, I inferred that they could not write.

Cross-examined.

Question by defendant. Did you ever see Rene Kersereau write his name?

Answer. I never did; I never saw the man.

Question. Did you ever see his name written, which you knew, of your own knowledge, to be his handwriting?

Answer. I did not, sir.

Question. Have you ever seen the name of Rene Kersereau in the register of burials or marriages spelt as you see it in said deed?

Answer. I have already stated that there appeared to be a variation in the manner of the signing of Mr. Kersereau; my examination of the records has

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not been such as to enable me to say whether the signatures in the record are exactly in the same way, though I believe that some of those signatures are pretty nearly the same with this.

Question. Do you know whether any of the signatures "Rene Kersereau," in the registers of marriages and burials, examined by you, were written by him?

Answer. I do not; I have no other evidence but what is furnished by the records.

Question. Examine the signature to said deed or instrument, "Mari Reneaux Rovillar," and state whether the whole appears to you to be in the same handwriting?

Answer. I should not take it to be the same handwriting.

Question. In what does the difference consist?

Answer. The words "Mari Reneaux" I take to be in the French writing, and the word "Rovillar" to be in the Spanish hand.

Question. Look at the word "Rovillar," as endorsed on the said instrument, and the same word in the signature, and say whether it is in the same handwriting.

Answer. They look very much alike, and I should take them to be the same handwriting.

By plaintiff.

Question. State whether the word "Rovillar" in the signature is on the right hand margin?

Answer. It is on the right hand margin.

J. V. GARNIER.

Sworn to and subscribed before me, by said Garnier, this 15th May, 1829. The deed referred, as shown to him, has endorsed on it my certificate of that fact.

J. SPALDING, *Commissioner, &c.*

[*Deposition of Louis A. Benoist.*]

Louis A. Benoist, of lawful age, being by me examined, cautioned, and sworn as above said, on his oath, deposeth as follows:

Question. Look at the said instrument, being the one just shown to Mr. Garnier, and state whether you have compared the signature, purporting to be that of Rene Kersereau, with any others, and what signatures.

Answer. I compared said signature with other signatures contained in a book of records of marriages, and found the first name, "Rene," uniformly the same thing; but as to the other name, "Kercereau," there were always one, two, or three letters less or more; sometimes in that word the *e* and the *u* were missing, and the *c* frequently missing; but notwithstanding, it is my belief that the signature in this deed is from the same person as those in the book of marriages.

Cross-examined.

Question by defendant. Did you ever see Rene Kersereau write his name?

Answer. No.

Question. Do you know that the said signatures, with which you compared that in the deed, or any of them, are in the handwriting of Rene Kersereau?

Answer. I never saw Kersereau sign personally; it is only from comparison of the signature to this deed and those of the records of marriages that I think them the same; I never heard the man's name till the other day, when Col. Lawless mentioned it to me; he died before I was born, as I have been told.

Question. How do you know that the names "Rene Kersereau" in the said record of marriages were written by him?

Answer. I have no other knowledge, but from comparison of that signature to this deed, and those in said record of marriages, as I have answered before.

Question. Look at the name "Mari Reneux Xovillax," purporting to be subscribed to the deed to which you have referred, and say whether the whole is in the same handwriting?

Answer. I think that "Mari Reneux" is different from "Xovillax," is different handwriting; I should read the word "Rovillar," from what I know of the Spanish handwriting.

By plaintiff.

Question. How is the letter R generally written in Spanish manuscript, and does it not resemble the letter X in English manuscript?

Answer. I am not acquainted with Spanish language, but from the deeds that I have seen, I have sometimes seen the R written somewhat like an X.

L. A. BENOIST.

Sworn to and subscribed before me, by said Benoist, this 15th May, 1829. The instrument referred, as having been exhibited to him, is endorsed by me, with a certificate stating that fact of this date.

J. SPALDING, *Commissioner, &c.*

[*Deposition of Pierre Cattellier Rodier.*]

Pierre Cattellier Rodier, of lawful age, being by me carefully examined, cautioned, and sworn to testify the whole truth, on his oath, saith:

Question by plaintiff's counsel. Have you compared the signature Rene Kersereau, subscribed to the instrument now exhibited to you with the signature Rene Kersereau on any other document, or any where else; and if so, when, and on what document?

Answer. I have compared said signature with register of marriage and burial of the year 1782, 22d of April, and year 1783, 25th of February, and the year 1783, 21st October, and 1787, the 13th February, and on the year 1793, the 22d November, and on the same year the 28th of November, and the same year on the 4th day of December, and on 1793, the 13th December, and on the year 1793, the 25th December, and the year 1793, the 29th of January.

Question by same. Which of those dates were on the register of marriages, and which on that of burials?

Answer. The first four dates are on the marriage register, the others on the register of burials.

Question by same. What registers of marriage and burial are they, of what parish, and in whose possession?

Answer. They belong to the parish of St. Louis, and are in the possession of the curate.

Question by same. Was the name of Rene Kersereau or not on those registers, under those dates before named?

Answer. Certainly.

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Question. Does or does not the name Rene Kersereau, subscribed to the deed or instrument which you have just seen, appear to be the same signature as the name Rene Kerscreau on said registers, under the dates you have mentioned?

Answer. Yes; but there are some small variations in the writing; his signature was not uniform, (regle.)

Question. Do you mean to say that the said signature generally, during the time of said several dates, was not uniform?

Answer. I observed in the signature that sometimes the letters were not well formed, and sometimes very well formed.

Question. Do you recollect in what capacity Rene Kersereau appears to have signed the said register of marriage?

Answer. In one instance, in the capacity of a witness; as to the others I do not recollect.

Question. In what instance, and to what marriage did he so sign as witness?

Answer. I did not take notice.

Question. In what capacity was the signature Rene Kersereau placed on the register of burials?

Answer. In the capacity of an officer of the church, (sacristan or chantre.) The sacristan or chantre generally, in the absence of the priest, buries the dead.

Question. Have you seen the name Rene Kersereau signed on any other part of the register of marriage or of burial in the same handwriting.

Answer. I did not take notice.

Cross-examined.

Question by defendant. Did you know Rene Kersereau?

Answer. No, sir; not at all.

Question by same. Do you remember how Rene Kersereau spelt his name on the register mentioned?

Answer. I did not examine particularly how he spelt his name. I took the dates of the signature.

P. C. RODIER.

Sworn to and subscribed before me, this 13th August, 1828.

J. SPALDING, *Commissioner, &c.*

[*Deposition of Edmund Saulnier.*]

Edmund Saulnier, being likewise by me examined, cautioned, and sworn as aforesaid, deposes as follows:

Question by plaintiff's counsel. Look at the paper now shown you, and see the name Rene Kersereau, and state whether you have seen that name signed any where else, and where.

Answer. I saw it in two registers, that of sepulture and of marriage; I showed to Mr. Rodier the places in the registers which he has mentioned.

Question. Under what dates did you see it on the register of marriage?

Answer. Under the date of 22d of April, 1782, is the only date I wrote down.

Question. Did you examine other dates?

Answer. I did, and requested Mr. Rodier to put them down.

Question. In what capacity did the signature Rene Kersereau appear on said register under date of 22d April, 1782?

Answer. I cannot know precisely in what capacity; I think in all the two registers he signs as witness.

Question. Are you sure of the two?

Answer. Yes, I think so, though I cannot be very certain. In the register of sepulture, his name is signed with the commandant of the place.

Question. In what capacity did he then sign?

Answer. I think he was employed in the church; I cannot tell whether he was sacristan or chantre.

Question. Do you recollect at how many dates you saw the signature Rene Kersereau on the register of interments?

Answer. I think three or four less than Mr. Rodier; but I know there were three or four more than Mr. Rodier put down; I told Mr. Rodier not to put them all down, that it was useless.

Question. Say whether or not, in your opinion, that the signature on the instrument now shown you, of Rene Kersereau, is the same with those you have seen of the same name in said registers.

Answer. I think the handwriting is almost the same, but there are one or two letters more in the signature in the registers than in the signature on this instrument, for example, the letter *e* after *i*, and *e* and *r* after *s*; but the signatures under the earliest dates in each of said registers, look near like that on this instrument, (look nearer.)

Question. In looking through those signatures in said registers, do you see any variation among themselves?

Answer. Yes, there are variations.

Question. Do you or not believe that the same person wrote the signature on said instrument, who wrote those signatures in said registers?

Answer. It seems to me, as I told you already, to be his handwriting.

Question. In what capacity are you here in St. Louis?

Answer. I am exercising the functions of parish priest of the parish of St. Louis; and the books, viz. the registers spoken of, are in my possession.

Question. Are the registers spoken of the originals, as received by you from your predecessors?

Answer. Yes; they are.

Question. Are you acquainted with Mr. Rodier, the witness just examined, and with his business?

Answer. Yes; he passes as a doctor.

Question. State, Mr. Saulnier, whether Mr. Rodier resides with you.

Answer. Yes; he lives in the same house with me.

Question. Does he perform any official duties as connected with your church?

Answer. Yes; he acts as sacristan.

Question. Does he pass as a doctor of law, or of physic, or of theology?

Answer. Of physic.

Cross-examined.

Question by defendant's counsel. Did you ever see Rene Kersereau write?

Answer. No, not at all.

Question. Do you know whether the handwriting in said registers mentioned was that of Rene Kercereau; and if so, what are your means of knowledge?

Answer. I know it by my own eyes; no other way.

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Question. Did you ever see the signature of Rene Kersereau, which you know of your own knowledge to have been written by him?

Answer. I know from what I have seen written in the registers, and in this paper, and no more.

Question. Did you ever know any such person as Rene Kersereau?

Answer. I have never seen him, but have heard of such a man's living here.

EDM. SAULNIER.

Sworn to and subscribed before me, this 13th August, 1828.

J. SPALDING, *Commissioner, &c.*

The defendant, by his counsel, objected to the reading of so much of said depositions as relates to the proof of the handwriting of Rene Kersereau, by comparison with register of marriages and interments there, and in the other depositions mentioned; which objection was by the court sustained; to which opinion the said plaintiff excepted; and the residue of said depositions was then read in evidence; and it was admitted by said parties, that the parties and witnesses to said two deeds from John Baptiste Gamache to Louis Chancellier, and from Marie Magdelene Robillard to Louis Chancellier, were all dead. The plaintiff here closed his case and testimony, whereupon the defendant moved the court to instruct the jury as follows: If the jury find, from the evidence, that the two confirmations made by the board of commissions to Auguste Chouteau, given in evidence by the plaintiff in this case, are for the same land, and include all the premises in the declaration mentioned, the plaintiff cannot recover in this action, which instruction the court gave, and to which opinion the said plaintiff, by his counsel, excepted, and prays the court to sign and seal this his bill of exceptions, which is done accordingly.

JAMES H. PECK. [SEAL.]

MISSOURI DISTRICT, sct.

I, Robert A. Ewing, clerk pro tempore of the United States' district court for the Missouri district, dohereby certify that the foregoing ninety pages contain a true and perfect transcript of the record and proceedings in the above named case of Daniel F. Strother against John B. C. Lucas, in as full and complete a manner as the same remains of record in my office.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said court, at office, in the city of Jefferson, this 30th day of September, A. D. 1830.

R. A. EWING, *Clerk pro tem.* [L. S.]